Assembly Bill No. 1752

Passed the Assembly July 29, 2003

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Chief Clerk of the Assembly

Passed the Senate July 27, 2003

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Secretary of the Senate

This bill was received by the Governor this _____ day of

_____, 2003, at _____ o'clock __M.

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Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 4055, 8810, 17400, and 17432 of, to add Section 17522.5 to, and to add and repeal Section 17560 of, the Family Code, to amend Sections 63049.1 and 63049.4 of the Government Code, to amend Sections 1522, 1523.1, 1523.2, 1534, 1568.05, 1569.185, 1569.33, 1596.803, 1596.871, 1597.09, 1597.55a, 1597.55b, 11970.4, and 127885 of, and to add Sections 11970.35 and 104558 to, the Health and Safety Code, to amend Sections 11001.5, 19271, and 19271.6 of the Revenue and Taxation Code, to amend Sections 1611, 1611.5, and 10533 of, and to add Sections 14003 and 14004 to, the Unemployment Insurance Code, and to amend Sections 9544, 9546, 9547, 11462, 11463, 11466.2, 11466.35, 12201, 18226, 19355.5, 19356, 19356.6, and 19356.7 of, to amend, repeal, and add Section 10088 of, and to add Sections 10544.2 and 18901.6 to, the Welfare and Institutions Code, relating to human services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1752, Committee on Budget. Human services.

(1) Existing law establishes uniform guidelines for determining child support. In certain cases, the court is required to rule on whether a low-income adjustment shall be made to the amount calculated under these guidelines. If the court allows that adjustment, existing law requires the court to state the reasons supporting the adjustment in writing and on the record.

This bill would provide for a rebuttable presumption that the child support obligor is entitled to a low-income adjustment, as specified. The bill would also delete the requirement that the court state the reasons supporting the adjustment.

(2) Existing law specifies the procedure for independent adoptions, in which neither the State Department of Social Services nor an agency licensed by the department is a party to, or joins in, the adoption petition. Existing law directs delegated county adoption agencies, which are defined to mean licensed county adoption agencies, and the State Department of Social Services to carry out specified duties for purposes of administering

independent adoptions. Among other duties, the department or the delegated county adoption agency is required to interview the petitioners and all persons from whom consent is required and whose addresses are known as soon as possible, and, in the case of residents of the state, within 45 working days after the filing of the adoption petition.

Existing law requires the petitioner for the adoption to pay a fee to the department or delegated county adoption agency, as specified, in connection with independent adoptions. Existing law provides for fee waivers, deferrals, or reductions when, in the department's judgment, the payment would cause economic hardship to the prospective adoptive parents and would be detrimental to the welfare of an adopted child.

This bill would specify that the fee is nonrefundable, that the fee is for the cost of investigating the adoption petition, and that the fee shall be paid within 40 days of the filing of the petition. It would also increase the fees, as specified. This bill would eliminate provision for deferral of fees, and permit fee waivers or reductions only when the parents are low income, as specified, and the required payment would be detrimental to an adopted child.

(3) Existing law authorizes a local child support agency to establish, modify, and enforce child support obligations and provides for a simplified complaint form. If the support obligor's income or income history is unknown to the agency, the complaint form is required to inform the obligor that income shall be presumed to be in a specified amount.

This bill would instead provide that the income shall be presumed to be the amount of the minimum wage, as specified.

(4) Existing law authorizes a court to set aside a child support order under specified conditions. A motion for relief pursuant to that provision is required to be filed within 90 days of the first collection of money by the local child support agency or the obligee.

This bill would revise the conditions under which the order may be set aside and would extend the time period for filing a motion for relief to one year. The bill would also require the local child support agency to check sources of income and make a determination whether the order qualifies for set aside. By imposing new duties on local agencies, the bill would impose a state-mandated local program.

The bill would also require the Judicial Council to review and modify any relevant forms for purposes of these provisions, as specified.

(5) Existing law authorizes a local child support agency to collect a delinquent child support obligation by issuing a levy, as specified. Existing law also authorizes the agency to transfer child support delinquencies to the Franchise Tax Board for collection. When a child support delinquency is transferred to the Franchise Tax Board, as specified, the amount of the delinquency may be collected by the Franchise Tax Board in any manner authorized under the law for collection of a delinquent income tax liability. Existing law authorizes the Franchise Tax Board to require various persons and depository institutions having in their possession or under their control things of value belonging to a taxpayer to withhold the amount of any tax, interest, or penalties due from the taxpayer and transmit that amount to the Franchise Tax Board.

This bill would require, when a local child support agency issues a levy upon, or when the Franchise Tax Board requires any employer, person, or other specified entity to withhold the amount of, a financial asset, as defined, for the purpose of collecting a delinquent child support obligation, the person, financial institution, or securities intermediary, as defined, in possession or control of the financial asset to liquidate the asset in a commercially reasonable manner within 20 days of the issuance of the levy or the notice to withhold. The bill would also require the person, financial institution, or securities intermediary to transfer the proceeds of the liquidation to the local child support agency or the Franchise Tax Board, as applicable, within 5 days of liquidation.

The bill would also require the Department of Child Support Services to develop a program pursuant to which the department may accept offers in compromise of child support arrears, as specified, until January 1, 2007. The bill would require the department to report to the Legislature on the results of the program by June 30, 2006.

The bill would specifically provide that the assets of an obligor held by a financial institution are subject to levy. However, the bill would create a specified exemption.

(6) The Vehicle License Fee (VLF) Law establishes, in lieu of any ad valorem property tax upon vehicles, an annual license fee

for any vehicle subject to registration in this state in the amount of 2% of the market value of that vehicle, as specified. The California Constitution requires that revenues generated from the annual vehicle license fee be allocated to cities and counties. Existing law requires the Controller to deposit 24.33% of the revenue collected under the VLF Law in the Treasury to the credit of the Local Revenue Fund.

This bill would, for the 2003–04 fiscal year only, require the Controller to deposit 28.07% of the revenues collected under the VLF Law in the Treasury to the credit of the Local Revenue Fund.

(7) Under existing law, the State Department of Social Services regulates the licensure and operation of community care facilities, including foster family and adoption agencies and foster family homes. The department also regulates the licensure and operation of various other care facilities, including, child day care centers, residential care facilities for the elderly, and residential care facilities for persons with chronic life-threatening illnesses. Existing law establishes for these facilities licensure and renewal fees which are classified according to the facility's capacity. Certified family homes of foster family agencies and foster family homes are exempt from these fees.

This bill would increase the licensure and renewal fees for these facilities. The bill would also revise the facility capacity classifications for child day care centers. It would also impose a separate annual fee of $80 on foster family agencies and their suboffices for each home certified by the agency or suboffice.

(8) Under existing law, the Technical Assistance Fund consists of specified moneys to be expended, upon appropriation by the Legislature, to fund the creation and maintenance of new licensing staff positions to provide technical assistance to specified care facility licensees. Under existing law, in fiscal years when licensure fees collected by the department from the specified facilities exceed $6,000,000, the excess shall be expended by the department to fund these new positions.

This bill would provide that, notwithstanding existing law, when revenues in the fund exceed $3,237,000, any fees over that amount shall remain in the General Fund.

(8.5) Under existing law, states' attorneys general and various tobacco product manufacturers have entered into a Master Settlement Agreement, in settlement of various lawsuits, that

provides for the allocation of money to the states and certain territories. The state has entered into a memorandum of understanding providing for the allocation of the state's share of moneys to be received under the Master Settlement Agreement between the state and counties and certain cities in the state.

Existing law sets forth the duties of the California Infrastructure and Economic Development Bank and its board of directors generally in performing various financing transactions, including the issuance of bonds or the authorizing of the issuance of bonds by a trust, partnership, limited partnership, association, corporation, nonprofit corporation, or other entity, known as a special purpose trust. Under existing law, the bank is authorized to sell for, and on behalf of, the state all or any portion of the state's tobacco assets, as defined, to a special purpose trust consisting of a not-for-profit corporation, except that the sale or sales of these assets are limited to an amount necessary to provide the state with up to $4.5 billion exclusive of capitalized interest on the bonds and any costs incurred by the bank or the special purpose trust in implementing these provisions.

This bill would increase from $4.5 billion to $5 billion the limit on the amount of the sale of these tobacco assets.

This bill would also authorize the bank, upon request by the Director of Finance, to include in, or add to, the sales agreement with the special purpose trust a covenant, to the effect that the Governor shall annually request from the Legislature an appropriation line item in the annual Budget Act from the General Fund, for allocation by the Department of Finance to the special purpose trust. It would specify the manner in which the amount of the appropriation shall be determined, the provisions of the appropriation, and the manner of disbursement of the appropriated amounts.

Existing law requires that any action or proceeding challenging the validity of any matter authorized under these tobacco asset provisions be brought in accordance with provisions governing validating proceedings contained in the Code of Civil Procedure.

This bill would require that, notwithstanding any other provision of law, the exclusive means to obtain review of a superior court judgment entered in an action brought to determine the validity of any bonds to be issued or any other contracts to be entered into, or any other matters authorized by these tobacco asset

provisions shall be by petition to the Supreme Court for writ of review, in accordance with prescribed requirements.

(8.7) The Master Settlement Agreement requires any tobacco product manufacturer selling cigarettes to consumers within the state to either become a participating manufacturer under the terms of the settlement agreement entered into by the states and certain tobacco manufacturers and perform its financial obligations under the settlement, or to place an amount of funds, calculated on the basis of units of tobacco products sold, into an escrow fund, which shall be used to pay a judgment or settlement on any released claim against the tobacco product manufacturer by the state or be released to the tobacco product manufacturer in certain circumstances.

Existing law authorizes the Attorney General to bring a civil action on behalf of the state against any tobacco product manufacturer that fails to place the funds into escrow.

This bill would provide that, in civil litigation under any legal theory involving a signatory, successor of a signatory, or an affiliate of a signatory to the agreement that is pending or filed after the effective date of this bill, the amount of the required undertaking, bond, or equivalent surety to be furnished during specified appellate proceedings shall be set in accordance with applicable rules of the court, except as prescribed. It would, however, authorize certain actions to be taken by a court if it is proved that the appealing party is intentionally dissipating or diverting assets for the purpose of avoiding ultimate payment of the judgment.

(9) Existing law prohibits the Department of Justice and the State Department of Social Services from charging a fee for the fingerprinting of an applicant for a license or special permit to operate or manage a community care facility or child day care facility, or for obtaining a criminal record of these applicants.

This bill would authorize these departments to charge these fees during the 2003–04 fiscal year.

(10) The California Community Care Facilities Act provides for the licensure and regulation of community care facilities by the State Department of Social Services. The department also licenses and regulates residential care facilities for the elderly, child day care centers, and family day care homes.

Existing law, with respect to community care facilities and residential care facilities for the elderly, establishes requirements for periodic inspections and evaluations for quality of care, by the department or a designee of the director.

This bill, instead, would require the department to conduct unannounced visits, as specified, would require annual unannounced visits to a specified percentage of these facilities based on a random sampling methodology developed by the department, and would require the department to visit each of these facilities no less often than once every 5 years.

(11) Existing law, with respect to child day care centers, requires the department to conduct site visitations, as specified.

This bill would require unannounced visits of these facilities, as specified, would require annual unannounced visits to a specified percentage of these facilities based on a random sampling methodology developed by the department, and would require the department to visit each of these facilities no less often than once every 5 years.

(12) Existing law, with respect to family day care homes, specifies requirements for site visits and spot checks by the department, and requires an unannounced site visit for a reissuance or renewal of a license, as prescribed, and unannounced visits on 10% of all family day care homes annually.

This bill would, instead, specify requirements for annual unannounced visits in certain circumstances, would require the department to visit a licensed family day care home no less often than once every 5 years, and would revise requirements for the unannounced visits of 10% of family day care homes.

(12.5) The Comprehensive Drug Court Implementation Act of 1999, until January 1, 2005, provides grants to counties in which the county alcohol and drug program administrator and the presiding judge in the county develop and submit a specified plan for local drug court systems, based on certain criteria.

This bill would provide that any funding for this program in the 2003 Budget Act, and in subsequent fiscal years, shall be allocated to counties that participated in this program during the 2002–03 fiscal year in accordance with specified requirements. The bill would also extend the operation of this program until January 1, 2006.

(13) Existing law requires the Office of Statewide Health Planning and Development to maintain a Health Professions Career Opportunity Program with specified duties.

This bill would provide that these provisions shall be implemented only to the extent that funds are appropriated for these purposes in the annual Budget Act or other statute.

(14) Existing law authorizes the Legislature to appropriate $30,000,000 in the Budget Act of 2002 from the Employment Training Fund to fund the local assistance portion of welfare-to-work activities under the CalWORKs program.

This bill would authorize the Legislature to appropriate $56,432,000 in the Budget Act of 2003 from the Employment Training Fund to fund the local assistance portion of welfare-to-work activities under the CalWORKs program.

(14.5) Existing law establishes the Employment Training Panel, which approves and pays for various job training programs, including the State-Local Cooperative Labor Market Information Program, with moneys from the Employment Training Fund. Existing law requires interest earned on moneys in the Employment Training Fund to be used to fund up to 50% of the costs of the State-Local Cooperative Labor Market Information Program.

This bill would eliminate the requirement to use that interest to fund costs of the State-Local Cooperative Labor Market Information Program.

(15) Existing law requires the Employment Development Department to operate the State-Local Cooperative Labor Market Information Program and, as part of the operation of that program, to provide direction to local entities that conduct local labor market information studies.

This bill would eliminate the requirement for the department to provide direction to local entities that conduct local labor market information studies and would, instead, authorize either the department or a local entity to conduct local labor market information studies. The bill would also remove the requirement that funding for the program be provided annually through Budget Act appropriations to the Employment Development Department, as provided.

(15.5) Under the federal Workforce Investment Act of 1998, the state receives federal funding for, among other things, job

training programs. The California Constitution requires the Governor, within the first 10 days of each calendar year, to submit to the Legislature a proposed budget for the ensuing fiscal year and requires the Legislature to pass a Budget Bill by June 15 of each year.

This bill would state the intent of the Legislature that a specified item in the Governor's Budget and the proposed Budget Bill include a schedule that itemizes which programs within that item are proposed to be funded with federal funds received pursuant to a provision of the Workforce Investment Act, as provided. This bill would permit this itemized schedule to include provisions that authorize the Director of Finance to modify this schedule if certain conditions are met.

This bill would also require that all grants or contracts awarded under that act, or any other state or federally funded workforce development program comply with state constitutional provisions relating to religious liberty and the prohibited use of public funds to aid religious organizations or purposes, state and federal civil rights laws, and the First Amendment to the United States Constitution relating to pervasively sectarian organizations. This bill would also require that an organization be a separate nonprofit entity or affiliate that is tax exempt under Section 501(c)(3) of the Internal Revenue Code, to be eligible for workforce development funds awarded under the California Community and Faith Based Initiative.

(16) Existing law requires the California Department of Aging, among other things, to administer the Mello-Granlund Older Californians Act, which establishes and provides funding for various programs that serve older individuals. Among the programs provided for under that act are the Foster Grandparent Program, the Respite Program, and the Senior Companion Program.

This bill would provide that these programs shall be implemented only to the extent that funds are appropriated for their purposes in the annual Budget Act or another statute.

(16.5) Existing federal law provides for allocation of federal funds through the federal Temporary Assistance for Needy Families (TANF) block grant program to eligible states. Existing law provides for the California Work Opportunity and Responsibility to Kids (CalWORKs) program for the allocation of

federal funds received through the TANF program, under which each county provides cash assistance and other benefits to qualified low-income families.

Existing law requires, in order to provide counties with additional incentive to move CalWORKs recipients to employment, that each county receive the state share of savings, including federal funds under the TANF block grant, subject to the amounts appropriated in the annual Budget Act, resulting from specified outcomes.

This bill would provide that the CalWORKs performance incentive funds allocated to counties under specified items of the Budget Act of 2002 shall be available for encumbrance and expenditure by counties until all of these funds are expended, without regard to fiscal years, thereby constituting an appropriation.

(17) Existing law provides for the federal Food Stamp Program, under which each county distributes food stamps provided by the federal government to eligible households.

This bill would require each county welfare department, to the maximum extent allowable under federal law, to provide transitional food stamp benefits to households terminating their participation in the CalWORKs program for a period of 5 months in accordance with specified formula. The imposition of this additional duty on counties would create a state-mandated local program.

(18) Existing law, pursuant to the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, requires that foster care providers licensed as group homes have rates established by classifying each group home program and applying the standardized schedule of rates. Existing law requires the State Department of Social Services to collect information from group providers in order to classify each group home program. Existing law also requires the department to develop, implement, and maintain a ratesetting system for foster family agencies. Group home and foster family agency ratesetting provisions contain annual cost-of-living adjustment requirements, as prescribed.

This bill would require the department to determine the rate classification level for each group home program and the rates for foster family agency programs on a biennial basis as prescribed.

It would require the department to implement these requirements through the adoption of emergency regulations.

(19) Existing law establishes, with respect to group home programs, the standardized schedule of rates for the 2002–03 fiscal year.

This bill would apply this schedule of rates to the 2003–04 fiscal year.

(20) Existing AFDC-FC provisions require the department to perform or have performed group home program and fiscal audits as needed.

This bill would prohibit the department from reducing a group home program's AFDC-FC rate or RCL, or establishing an overpayment based upon a nonprovisional program audit, for a period of less than one year.

(21) Under the Comprehensive Youth Services Act funds are provided to counties for the provision of various services to children who are habitual truants, runaways, at risk of being wards of the court, or under the supervision of the county probation department. Existing law provides that the act will remain operative only until October 31, 2003.

This bill would extend the operative date of the act to October 31, 2004, and would repeal it on January 1, 2005.

(22) Existing law, that will be repealed on July 1, 2004, establishes the Habilitation Service Program, administered by the Department of Rehabilitation, to assist adults with developmental disabilities.

Existing law requires the department to adopt regulations to establish rates for work-activity program services under this program subject to the approval of the Department of Finance. Existing law further requires that for the 2002–03 fiscal year, the department suspend for one year the biennial rate adjustment for work-activity programs.

This bill would require the department to suspend these adjustments for the 2003–04 fiscal year. It would also require, commencing July 1, 2003, that the rates paid to work-activity programs be reduced by 5%.

(23) Existing law establishes the hourly rate for supported employment services provided to clients receiving individualized services and for group services, with certain of these provisions becoming inoperative on September 1, 2003.

This bill would eliminate the inoperative date. The bill also would reduce the hourly rate for supported employment services provided to clients receiving individualized services and group services under the program.

(24) Existing law provides for the licensure of maternity homes that provide services to unmarried pregnant persons under the age of 18 years. Existing law requires the state to reimburse nonprofit licensed maternity homes for the costs of care and services from any funds appropriated for that purpose.

This bill would provide that funds appropriated in Item 5180-151-0001 of the Budget Act of 2003 to the department to compensate licensed maternity homes shall be awarded to programs located in the most populous county and in an area in that county with one of the highest rates of teenage pregnancy in the state.

(24.5) Existing law requires that California's child support automation system meet federal automation requirements and subjects the state to the payment of penalties for any failure to meet these requirements by specified dates pursuant to federal law.

Existing law specifies procedures by which, if the federal government imposes a penalty on the state's child support program for failure to meet federal automation requirements, the penalty is allocated to each local child support agency in proportion to its administrative costs, and under which the state may hold penalties in abeyance and supplant reductions to county administrative funding, subject to the availability of funds in the annual Budget Act, if certain criteria are met.

This bill, until July 1, 2004, would instead permit the Department of Finance to allocate up to 25% of the penalty to the counties, as prescribed. These provisions would revert to existing law on July 1, 2004.

(25) Under existing law, the state and each county receives a portion of child support collections, in accordance with prescribed requirements.

This bill would require the Department of Child Support Services to convene a specified group to evaluate the child support program allocation methodology and report to the budget committees of the Legislature by March 31, 2004. The bill would also require the department to work with interested stakeholders to make changes, as prescribed, to the department's existing

budgeting display and the information provided to the Legislature regarding the child support program.

This bill would also require that reductions to local child support agency allocations made in the 2003–04 fiscal year be implemented in a manner that does not negatively impact child support collections, and would require counties that plan to implement any reductions through staff reductions, to develop a plan, as specified, that minimizes any negative effect of these reductions on child support collections and other performance measurements.

(26) Existing law provides for the State Supplementary Program for the Aged, Blind and Disabled (SSP), which requires the State Department of Social Services to contract with the United States Secretary of Health and Human Services to make payments to SSP recipients to supplement supplemental security income (SSI) payments made available pursuant to the federal Social Security Act.

Under existing law, benefit payments under the SSP program are calculated by establishing the maximum level of nonexempt income and federal (SSI) and state (SSP) benefits for each category of eligible recipient. The state SSP payment is the amount, when added to the nonexempt income and SSI benefits available to the recipient, that would be required to provide the maximum benefit payment.

Existing state law provides, except in certain calendar years, for the annual adjustment of the total level of combined state and federal benefits as established by statutory schedule to reflect changes in the cost of living, as defined.

Existing law provides, however, that, commencing with the 2004 calendar year, in any calendar year in which no cost-of-living adjustment is made to the combined SSI/SSP benefit, there shall be a pass-along of any cost-of-living increase in federal SSI payments.

This bill would provide that, for the 2004 calendar year, no cost-of-living adjustment shall be made to the combined SSI/SSP benefit.

(27) Existing law establishes the California Health and Human Services Agency Data Center within the California Health and Human Services Agency, under the supervision of a director appointed by the Secretary of the California Health and Human

Services Agency. Existing law establishes the California Health and Human Services Agency Revolving Fund in the State Treasury, continuously appropriates moneys in the fund for the payment of expenses incurred by the data center, and specifies that if the data center is consolidated with other state information technology centers, the fund shall cease to exist and any remaining moneys in the fund shall be distributed in accordance with specified provisions of law.

Existing law establishes the Stephen P. Teale Data Center in the Business, Transportation and Housing Agency, under the supervision of a data center director appointed by the Governor.

This bill would require the Department of Finance to convene a specified working group to develop and submit to the Legislature, on or before December 1, 2003, a plan to consolidate the California Health and Human Services Agency Data Center and the Stephen P. Teale Data Center commencing July 1, 2004.

(28) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(29) The bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 4055 of the Family Code is amended to read:

4055. (a) The statewide uniform guideline for determining child support orders is as follows: CS = K [HN — (H%) (TN)].

(b) (1) The components of the formula are as follows:

(A) CS = child support amount.

(B) K = amount of both parents' income to be allocated for child support as set forth in paragraph (3).

(C) HN = high earner's net monthly disposable income.

(D) H% = approximate percentage of time that the high earner has or will have primary physical responsibility for the children compared to the other parent. In cases in which parents have different time-sharing arrangements for different children, H% equals the average of the approximate percentages of time the high earner parent spends with each child.

(E) TN = total net monthly disposable income of both parties.

(2) To compute net disposable income, see Section 4059.

(3) K (amount of both parents' income allocated for child support) equals one plus H% (if H% is less than or equal to 50 percent) or two minus H% (if H% is greater than 50 percent) times the following fraction:

Total Net Disposable Income Per Month	K
$0–800	0.20 + TN/16,000
$801–6,666	0.25
$6,667–10,000	0.10 + 1,000/TN
Over $10,000	0.12 + 800/TN

For example, if H% equals 20 percent and the total monthly net disposable income of the parents is $1,000, K = (1 + 0.20) × 0.25, or 0.30. If H% equals 80 percent and the total monthly net disposable income of the parents is $1,000, K = (2 — 0.80) × 0.25, or 0.30.

(4) For more than one child, multiply CS by:

2 children	1.6
3 children	2
4 children	2.3
5 children	2.5
6 children	2.625
7 children	2.75
8 children	2.813
9 children	2.844
10 children	2.86

(5) If the amount calculated under the formula results in a positive number, the higher earner shall pay that amount to the lower earner. If the amount calculated under the formula results in a negative number, the lower earner shall pay the absolute value of that amount to the higher earner.

(6) In any default proceeding where proof is by affidavit pursuant to Section 2336, or in any proceeding for child support in which a party fails to appear after being duly noticed, H% shall be set at zero in the formula if the noncustodial parent is the higher earner or at 100 if the custodial parent is the higher earner, where there is no evidence presented demonstrating the percentage of time that the noncustodial parent has primary physical responsibility for the children. H% shall not be set as described above if the moving party in a default proceeding is the noncustodial parent or if the party who fails to appear after being duly noticed is the custodial parent. A statement by the party who is not in default as to the percentage of time that the noncustodial parent has primary physical responsibility for the children shall be deemed sufficient evidence.

(7) In all cases in which the net disposable income per month of the obligor is less than one thousand dollars ($1,000), there shall be a rebuttable presumption that the obligor is entitled to a low-income adjustment. The presumption may be rebutted by evidence showing that the application of the low-income adjustment would be unjust and inappropriate in the particular case. In determining whether the presumption is rebutted, the court shall consider the principles provided in Section 4053, and the impact of the contemplated adjustment on the respective net incomes of the obligor and the obligee. The low-income adjustment shall reduce the child support amount otherwise determined under this section by an amount that is no greater than the amount calculated by multiplying the child support amount otherwise determined under this section by a fraction, the numerator of which is 1,000 minus the obligor’s net disposable income per month, and the denominator of which is 1,000.

(8) Unless the court orders otherwise, the order for child support shall allocate the support amount so that the amount of support for the youngest child is the amount of support for one child, and the amount for the next youngest child is the difference between that amount and the amount for two children, with similar

allocations for additional children. However, this paragraph does not apply to cases in which there are different time-sharing arrangements for different children or where the court determines that the allocation would be inappropriate in the particular case.

(c) If a court uses a computer to calculate the child support order, the computer program shall not automatically default affirmatively or negatively on whether a low-income adjustment is to be applied. If the low-income adjustment is applied, the computer program shall not provide the amount of the low-income adjustment. Instead, the computer program shall ask the user whether or not to apply the low-income adjustment, and if answered affirmatively, the computer program shall provide the range of the adjustment permitted by paragraph (7) of subdivision (b).

SEC. 2. Section 8810 of the Family Code is amended to read:

8810. (a) Except as otherwise provided in this section, whenever a petition is filed under this chapter for the adoption of a child, the petitioner shall pay a nonrefundable fee to the department or to the delegated county adoption agency for the cost of investigating the adoption petition. Payment shall be made to the department or delegated county adoption agency, within 40 days of the filing of the petition, for an amount as follows:

(1) For petitions filed on and after July 1, 2003, two thousand nine hundred fifty dollars ($2,950).

(2) For petitioners who have a valid preplacement evaluation at the time of filing a petition pursuant to Section 8811.5, seven hundred seventy-five dollars ($775) for a postplacement evaluation pursuant to Sections 8806 and 8807.

(b) Revenues produced by fees collected by the department pursuant to subdivision (a) shall be used, when appropriated by the Legislature, to fund only the direct costs associated with the state program for independent adoptions. Revenues produced by fees collected by the delegated county adoption agency pursuant to subdivision (a) shall be used by the county to fund the county program for independent adoptions.

(c) The department or delegated county adoption agency may only waive, or reduce the fee when the prospective adoptive parents are low income, according to the income limits published by the Department of Housing and Community Development, and making the required payment would be detrimental to the welfare

of an adopted child. The department shall develop additional guidelines to determine the financial criteria for waiver or reduction of the fee under this subdivision.

SEC. 3. Section 17400 of the Family Code is amended to read:

17400. (a) Each county shall maintain a local child support agency, as specified in Section 17304, that shall have the responsibility for promptly and effectively establishing, modifying, and enforcing child support obligations, including medical support, enforcing spousal support orders established by a court of competent jurisdiction, and determining paternity in the case of a child born out of wedlock. The local child support agency shall take appropriate action, including criminal action in cooperation with the district attorneys, to establish, modify, and enforce child support and, when appropriate, enforce spousal support orders when the child is receiving public assistance, including Medi-Cal, and, when requested, shall take the same actions on behalf of a child who is not receiving public assistance, including Medi-Cal.

(b) Notwithstanding Sections 25203 and 26529 of the Government Code, attorneys employed within the local child support agency may direct, control, and prosecute civil actions and proceedings in the name of the county in support of child support activities of the Department of Child Support Services and the local child support agency.

(c) Actions brought by the local child support agency to establish paternity or child support or to enforce child support obligations shall be completed within the time limits set forth by federal law. The local child support agency's responsibility applies to spousal support only where the spousal support obligation has been reduced to an order of a court of competent jurisdiction. In any action brought for modification or revocation of an order that is being enforced under Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.), the effective date of the modification or revocation shall be as prescribed by federal law (42 U.S.C. Sec. 666(a)(9)), or any subsequent date.

(d) (1) The Judicial Council, in consultation with the department and representatives of the California Family Support Council, the Senate Committee on Judiciary, the Assembly Committee on Judiciary, and a legal services organization providing representation on child support matters, shall develop

simplified summons, complaint, and answer forms for any action for support brought pursuant to this section or Section 17404. The Judicial Council may combine the summons and complaint in a single form.

(2) The simplified complaint form shall provide notice of the amount of child support that is sought pursuant to the guidelines set forth in Article 2 (commencing with Section 4050) of Chapter 2 of Part 2 of Division 9 based upon the income or income history of the support obligor as known to the local child support agency. If the support obligor's income or income history is unknown to the local child support agency, the complaint shall inform the support obligor that income shall be presumed to be the amount of the minimum wage, at 40 hours per week, established by the Industrial Welfare Commission pursuant to Section 1181.11 of the Labor Code unless information concerning the support obligor's income is provided to the court. The complaint form shall be accompanied by a proposed judgment. The complaint form shall include a notice to the support obligor that the proposed judgment will become effective if he or she fails to file an answer with the court within 30 days of service. Except as provided in paragraph (2) of subdivision (a) of Section 17402, if the proposed judgment is entered by the court, the support order in the proposed judgment shall be effective as of the first day of the month following the filing of the complaint.

(3) (A) The simplified answer form shall be written in simple English and shall permit a defendant to answer and raise defenses by checking applicable boxes. The answer form shall include instructions for completion of the form and instructions for proper filing of the answer.

(B) The answer form shall be accompanied by a blank income and expense declaration or simplified financial statement and instructions on how to complete the financial forms. The answer form shall direct the defendant to file the completed income and expense declaration or simplified financial statement with the answer, but shall state that the answer will be accepted by a court without the income and expense declaration or simplified financial statement.

(C) The clerk of the court shall accept and file answers, income and expense declarations, and simplified financial statements that are completed by hand provided they are legible.

(4) (A) The simplified complaint form prepared pursuant to this subdivision shall be used by the local child support agency or the Attorney General in all cases brought under this section or Section 17404.

(B) The simplified answer form prepared pursuant to this subdivision shall be served on all defendants with the simplified complaint. Failure to serve the simplified answer form on all defendants shall not invalidate any judgment obtained. However, failure to serve the answer form may be used as evidence in any proceeding under Section 17432 of this code or Section 473 of the Code of Civil Procedure.

(C) The Judicial Council shall add language to the governmental summons, for use by the local child support agency with the governmental complaint to establish parental relationship and child support, informing defendants that a blank answer form should have been received with the summons and additional copies may be obtained from either the local child support agency or the superior court clerk.

(e) In any action brought or enforcement proceedings instituted by the local child support agency pursuant to this section for payment of child or spousal support, an action to recover an arrearage in support payments may be maintained by the local child support agency at any time within the period otherwise specified for the enforcement of a support judgment, notwithstanding the fact that the child has attained the age of majority.

(f) The county shall undertake an outreach program to inform the public that the services described in subdivisions (a) to (c), inclusive, are available to persons not receiving public assistance. There shall be prominently displayed in every public area of every office of the agencies established by this section a notice, in clear and simple language prescribed by the Director of Child Support Services, that the services provided in subdivisions (a) to (c), inclusive, are provided to all individuals, whether or not they are recipients of public assistance.

(g) (1) In any action to establish a child support order brought by the local child support agency in the performance of duties under this section, the local child support agency may make a motion for an order effective during the pendency of that action, for the support, maintenance, and education of the child or

children that are the subject of the action. This order shall be referred to as an order for temporary support. This order has the same force and effect as a like or similar order under this code.

(2) The local child support agency shall file a motion for an order for temporary support within the following time limits:

(A) If the defendant is the mother, a presumed father under Section 7611, or any father where the child is at least six months old when the defendant files his or her answer, the time limit is 90 days after the defendant files an answer.

(B) In any other case where the defendant has filed an answer prior to the birth of the child or not more than six months after the birth of the child, then the time limit is nine months after the birth of the child.

(3) If more than one child is the subject of the action, the limitation on reimbursement shall apply only as to those children whose parental relationship and age would bar recovery were a separate action brought for support of that child or those children.

(4) If the local child support agency fails to file a motion for an order for temporary support within time limits specified in this section, the local child support agency shall be barred from obtaining a judgment of reimbursement for any support provided for that child during the period between the date the time limit expired and the motion was filed, or, if no motion is filed, when a final judgment is entered.

(5) Except as provided in Section 17304, nothing in this section prohibits the local child support agency from entering into cooperative arrangements with other county departments as necessary to carry out the responsibilities imposed by this section pursuant to plans of cooperation with the departments approved by the Department of Child Support Services.

(6) Nothing in this section otherwise limits the ability of the local child support agency from securing and enforcing orders for support of a spouse or former spouse as authorized under any other provision of law.

(h) As used in this article, ‘‘enforcing obligations’’ includes, but is not limited to, any of the following:

(1) The use of all interception and notification systems operated by the department for the purposes of aiding in the enforcement of support obligations.

(2) The obtaining by the local child support agency of an initial order for child support that may include medical support or that is for medical support only, by civil or criminal process.

(3) The initiation of a motion or order to show cause to increase an existing child support order, and the response to a motion or order to show cause brought by an obligor parent to decrease an existing child support order, or the initiation of a motion or order to show cause to obtain an order for medical support, and the response to a motion or order to show cause brought by an obligor parent to decrease or terminate an existing medical support order, without regard to whether the child is receiving public assistance.

(4) The response to a notice of motion or order to show cause brought by an obligor parent to decrease an existing spousal support order when the child or children are residing with the obligee parent and the local child support agency is also enforcing a related child support obligation owed to the obligee parent by the same obligor.

(5) The transfer of child support delinquencies to the Franchise Tax Board under subdivision (c) of Section 17500 in support of the local child support agency.

(i) As used in this section, ''out of wedlock'' means that the biological parents of the child were not married to each other at the time of the child's conception.

(j) (1) The local child support agency is the public agency responsible for administering wage withholding for current support for the purposes of Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.).

(2) Nothing in this section limits the authority of the local child support agency granted by other sections of this code or otherwise granted by law, except to the extent that the law is inconsistent with the transfer of delinquent child support to the Franchise Tax Board.

(k) In the exercise of the authority granted under this article, the local child support agency may intervene, pursuant to subdivision (b) of Section 387 of the Code of Civil Procedure, by ex parte application, in any action under this code, or other proceeding in which child support is an issue or a reduction in spousal support is sought. By notice of motion, order to show cause, or responsive pleading served upon all parties to the action, the local child support agency may request any relief that is appropriate that the local child support agency is authorized to seek.

(*l*) The local child support agency shall comply with all regulations and directives established by the department that set time standards for responding to requests for assistance in locating noncustodial parents, establishing paternity, establishing child support awards, and collecting child support payments.

(m) As used in this article, medical support activities that the local child support agency is authorized to perform are limited to the following:

(1) The obtaining and enforcing of court orders for health insurance coverage.

(2) Any other medical support activity mandated by federal law or regulation.

(n) (1) Notwithstanding any other law, venue for an action or proceeding under this division shall be determined as follows:

(A) Venue shall be in the superior court in the county that is currently expending public assistance.

(B) If public assistance is not currently being expended, venue shall be in the superior court in the county where the child who is entitled to current support resides or is domiciled.

(C) If current support is no longer payable through, or enforceable by, the local child support agency, venue shall be in the superior court in the county that last provided public assistance for actions to enforce arrearages assigned pursuant to Section 11477 of the Welfare and Institutions Code.

(D) If subparagraphs (A), (B), and (C) do not apply, venue shall be in the superior court in the county of residence of the support obligee.

(E) If the support obligee does not reside in California, and subparagraphs (A), (B), (C), and (D) do not apply, venue shall be in the superior court of the county of residence of the obligor.

(2) Notwithstanding paragraph (1), if the child becomes a resident of another county after an action under this part has been filed, venue may remain in the county where the action was filed until the action is completed.

(o) The local child support agency of one county may appear on behalf of the local child support agency of any other county in an action or proceeding under this part.

SEC. 4. Section 17432 of the Family Code is amended to read:

17432. (a) In any action filed by the local child support agency pursuant to Section 17400, 17402, or 17404, the court may,

on any terms that may be just, relieve the defendant from that part of the judgment or order concerning the amount of child support to be paid. This relief may be granted after the six-month time limit of Section 473 of the Code of Civil Procedure has elapsed, based on the grounds, and within the time limits, specified in this section.

(b) This section shall apply only to judgments or orders for support that were based upon presumed income as specified in subdivision (d) of Section 17400 and that were entered after the entry of the default of the defendant under Section 17430. This section shall apply only to the amount of support ordered and not that portion of the judgment or order concerning the determination of parentage.

(c) The court may set aside the child support order contained in a judgment described in subdivision (b) if the defendant's income was substantially different for the period of time during which judgment was effective compared with the income the defendant was presumed to have. A ''substantial difference'' means that amount of income that would result in an order for support that deviates from the order entered by default by 10 percent or more.

(d) Application for relief under this section shall be filed together with an income and expense declaration or simplified financial statement or other information concerning income for any relevant years. The Judicial Council may combine the application for relief under this section and the proposed answer into a single form.

(e) The burden of proving that the actual income of the defendant deviated substantially from the presumed income shall be on the party seeking to set aside the order.

(f) A motion for relief under this section shall be filed within one year of the first collection of money by the local child support agency or the obligee. The one-year time period shall run from the date that the local child support agency receives the first collection.

(g) Within three months from the date the local child support agency receives the first collection for any order established using presumed income, the local child support agency shall check all appropriate sources for income information, and if income information exists, the local child support agency shall make a determination whether the order qualifies for set aside under this

section. If the order qualifies for set aside, the local child support agency shall bring a motion for relief under this section.

(h) In all proceedings under this section, before granting relief, the court shall consider the amount of time that has passed since the entry of the order, the circumstances surrounding the defendant's default, the relative hardship on the child or children to whom the duty of support is owed, the caretaker parent, and the defendant, and other equitable factors that the court deems appropriate.

(i) If the court grants the relief requested, the court shall issue a new child support order using the appropriate child support guidelines currently in effect. The new order shall have the same commencement date as the order set aside.

(j) The Judicial Council shall review and modify any relevant forms for purposes of this section. Any modifications to the forms shall be effective July 1, 2004. Prior to the implementation of any modified Judicial Council forms, the local child support agency or custodial parent may file any request to set aside a default judgment under this section using Judicial Council Form FL-680 entitled ''Notice of Motion (Governmental)'' and form FL-684 entitled ''Request for Order and Supporting Declaration (Governmental).''

SEC. 5. Section 17522.5 is added to the Family Code, to read:

17522.5. (a) Notwithstanding Section 8112 of the Commercial Code and Section 700.130 of the Code of Civil Procedure, when a local child support agency pursuant to Section 17522, or the Franchise Tax Board pursuant to Section 18670 or 18670.5 of the Revenue and Taxation Code and Section 17500, issues a levy upon, or requires by notice any employer, person, political officer or entity, or depository institution to withhold the amount of, as applicable, a financial asset for the purpose of collecting a delinquent child support obligation, the person, financial institution, or securities intermediary (as defined in Section 8102 of the Commercial Code) in possession or control of the financial asset shall liquidate the financial asset in a commercially reasonable manner within 20 days of the issuance of the levy or the notice to withhold. Within five days of liquidation, the person, financial institution, or securities intermediary shall transfer to the local child support agency or the Franchise Tax Board, as applicable, the proceeds of the liquidation, less any

reasonable commissions or fees, or both, which are charged in the normal course of business.

(b) If the value of the financial assets exceed the total amount of support due, the obligor may, within 10 days after the service of the levy or notice to withhold upon the person, financial institution, or securities intermediary, instruct the person, financial institution, or securities intermediary who possesses or controls the financial assets as to which financial assets are to be sold to satisfy the obligation for delinquent support. If the obligor does not provide instructions for liquidation, the person, financial institution, or securities intermediary who possesses or controls the financial assets shall liquidate the financial assets in a commercially reasonable manner and in an amount sufficient to cover the obligation for delinquent child support, and any reasonable commissions or fees, or both, which are charged in the normal course of business, beginning with the financial assets purchased most recently.

(c) For the purposes of this section, a financial asset shall include, but not be limited to, an uncertificated security, certificated security, or security entitlement (as defined in Section 8102 of the Commercial Code), security (as defined in Section 8103 of the Commercial Code), or a securities account (as defined in Section 8501 of the Commercial Code).

SEC. 6. Section 17560 is added to the Family Code, to read:

17560. (a) The department shall create a program establishing an arrears collection enhancement process pursuant to which the department may accept offers in compromise of child support arrears and interest accrued thereon owed to the state for reimbursement of aid paid pursuant to Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code. The program shall operate uniformly across California and shall take into consideration the needs of the children subject to the child support order and the obligor’s ability to pay.

(b) If the obligor owes current child support, the offer in compromise shall require the obligor to be in compliance with the current support order for a set period of time before any arrears and interest accrued thereon may be compromised.

(c) Absent a finding of good cause, any offer in compromise entered into pursuant to this section shall be rescinded, all

compromised liabilities shall be reestablished notwithstanding any statute of limitations that otherwise may be applicable, and no portion of the amount offered in compromise may be refunded, if either of the following occurs:

(1) The department or local child support agency determines that the obligor did any of the following acts regarding the offer in compromise:

(A) Concealed from the department or local child support agency any income, assets, or other property belonging to the obligor or any reasonably anticipated receipt of income, assets, or other property.

(B) Intentionally received, withheld, destroyed, mutilated, or falsified any information, document, or record, or intentionally made any false statement, relating to the financial conditions of the obligor.

(2) The obligor fails to comply with any of the terms and conditions of the offer in compromise.

(d) Pursuant to subdivision (k) of Section 17406, in no event may the administrator, director, or director's designee within the department, accept an offer in compromise of any child support arrears owed directly to the custodial party unless that party consents to the offer in compromise in writing and participates in the agreement. Prior to giving consent, the custodial party shall be provided with a clear written explanation of the rights with respect to child support arrears owed to the custodial party and the compromise thereof.

(e) Subject to the requirements of this section, the director may delegate to the administrator of a local child support agency the authority to compromise an amount of child support arrears that does not exceed five thousand dollars ($5,000). Only the director or his or her designee may compromise child support arrears in excess of five thousand dollars ($5,000).

(f) For an amount to be compromised under this section, the following conditions shall exist:

(1) The administrator, director or director's designee within the department determines that acceptance of an offer in compromise is in the best interest of the state and that the compromise amount equals or exceeds what the state can expect to collect for reimbursement of aid paid pursuant to Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and

Institutions Code in the absence of the compromise, based on the obligor's ability to pay.

(2) Any other terms and conditions that the director establishes that may include, but may not be limited to, paying current support in a timely manner, making lump sum payments, and paying arrears in exchange for compromise of interest owed.

(3) The obligor shall provide evidence of income and assets, including, but not limited to, wage stubs, tax returns, and bank statements and establish all of the following:

(A) That the amount set forth in the offer in compromise of arrears owed is the most that can be expected to be paid or collected from the obligor's present assets or income.

(B) That the obligor does not have reasonable prospects of acquiring increased income or assets that would enable the obligor to satisfy a greater amount of the child support arrears than the amount offered, within a reasonable period of time.

(C) That the obligor has not withheld payment of child support in anticipation of the offers in compromise program.

(g) A determination by the administrator, director or the director's designee within the department that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of child support arrears shall be final and not subject to the provisions of Chapter 5 (commencing with Section 17800) of Division 17, or subject to judicial review.

(h) Any offer in compromise entered into pursuant to this section shall be filed with the appropriate court. The local child support agency shall notify the court if the compromise is rescinded pursuant to subdivision (c).

(i) Any compromise of child support arrears pursuant to this section shall maximize to the greatest extent possible the state's share of the federal performance incentives paid pursuant to the Child Support Performance and Incentive Act of 1998 and shall comply with federal law.

(j) The department shall ensure uniform application of this section across the state.

(k) The department shall consult with the Franchise Tax Board in the development of the program established pursuant to this section.

(*l*) The department shall report to the Legislature on the results of the program established pursuant to this section no later than June 30, 2006.

(m) This section shall remain in effect only until January 1, 2007, and as of that date is repealed unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

SEC. 6.5. Section 63049.1 of the Government Code is amended to read:

63049.1. (a) Subject to subdivision (c), the bank is hereby authorized to sell for, and on behalf of, the state, solely as its agent, all or any portion of the tobacco assets to a special purpose trust which is hereby established as a not-for-profit corporation solely for that purpose and for the purposes necessarily incidental thereto, and to enter into one or more sales agreements with the special purpose trust as and on the terms it deems appropriate, which may include covenants of, and binding on, the state necessary to establish and maintain the security of the bonds and exemption of interest on the bonds from federal income taxation. The principal office of the special purpose trust shall be located in Sacramento County. The articles of incorporation of the special purpose trust shall be prepared and filed, on behalf of the state, with the Secretary of State by the bank, and the five voting members of the State Public Works Board shall serve ex officio as the directors of the special purpose trust. Directors of the special purpose trust shall not be subject to personal liability for carrying out the powers and duties conferred by this article. The special purpose trust shall be treated as a separate legal entity with its separate corporate purpose as described in this article, and the assets, liabilities, and funds of the special purpose trust shall be neither consolidated nor commingled with those of the bank or the State Public Works Board.

The special purpose trust is hereby authorized to issue bonds, including, but not limited to, refunding bonds, on the terms it shall determine, and do all things contemplated by, and authorized by, this division with respect to the bank, and enjoy all rights, privileges, and immunities the bank enjoys pursuant to this division, or as authorized by Section 5140 of the Corporations Code with respect to public benefit nonprofit corporations, or as necessary or appropriate in connection with the issuance of bonds, and may enter into agreements with any public or private entity

and pledge the tobacco assets that it purchased as collateral and security for its bonds. The pledge of any of these assets and of any revenues, reserves, and earnings pledged in connection therewith shall be valid and binding in accordance with its terms from the time the pledge is made and amounts so pledged and thereafter received shall immediately be subject to the lien of the pledge without the need for physical delivery, recordation, filing, or other further act. The special purpose trust, and its assets and income, and bonds issued by the special purpose trust, and their transfer and the income therefrom, shall be exempt from all taxation by the state and by its political subdivisions.

(b) (1) In order to assist the special purpose trust in financing or refinancing the purchase of tobacco assets by enhancing the security of the bonds issued for that purpose, upon request by the Director of Finance, the bank may include in, or add to, the sales agreement with the special purpose trust a covenant, binding on the state, to the effect that the Governor shall each year request from the Legislature an appropriation line item in the annual Budget Act, in a manner described further in this subdivision, from the General Fund for allocation by the Department of Finance to the special purpose trust in an amount equal to the debt service and operating expenses scheduled, or, in the case of bonds bearing variable rates of interest, estimated, to become due during the next succeeding fiscal year on the bonds, including refunding bonds, issued by the special purpose trust to finance or refinance the purchase of tobacco assets pursuant to that sales agreement.

(2) The appropriation referred to in paragraph (1) may provide that it will have an initial zero funding amount, but shall contain provisions authorizing the Director of Finance to make allocations in augmentation of the appropriation, without further legislative approval, from the General Fund, up to the amount certified by the special purpose trust to be necessary to cover the difference, if negative, between the amount of tobacco assets received by the special purpose trust pursuant to the sales agreement by the end of April of any calendar year, plus any other amounts available in the debt service reserve fund or other fund held by the trustee for the bonds, less the amount of debt service on the bonds and operating expenses scheduled, or in the case of bonds bearing variable rates of interest, estimated, to become due during the next succeeding 12 months.

(3) Any amounts appropriated as provided in this subdivision shall be disbursed to the trustee for the bonds for the purpose of paying the debt service on the bonds and operating expenses specified in the certificate of the special purpose trust. Notwithstanding any other provision of this article, the Legislature shall not be obligated by this subdivision or any covenant made in a sales agreement, or any other provision of law, to appropriate or otherwise make funds available to pay debt service on the bonds or operating expenses.

(c) Based upon the terms of the sale agreements and bonds as established by the special purpose trust pursuant to subdivision (a) or (b), tobacco assets may be sold pursuant to this article, whether at one time or from time-to-time, only in an amount or amounts necessary to provide the state with up to five billion dollars ($5,000,000,000) exclusive of capitalized interest on the bonds and any costs incurred by the bank or the special purpose trust in implementing this article, including, but not limited to, the cost of financing one or more reserve funds, any credit enhancements, costs incurred in the issuance of bonds, and operating expenses. The net proceeds of sale of any tobacco assets by the bank shall be deposited in the General Fund. The use and application of the proceeds of any sale of tobacco assets or bonds shall not in any way affect the legality or validity of that sale or those bonds.

SEC. 6.7. Section 63049.4 of the Government Code is amended to read:

63049.4. (a) On and after the effective date of each sale of tobacco assets, the state shall have no right, title, or interest in or to the tobacco assets sold, and the tobacco assets so sold shall be property of the special purpose trust and not of the state, the bank board, the State Public Works Board, or the bank, and shall be owned, received, held, and disbursed by the special purpose trust or the trustee for the financing. None of the tobacco assets sold by the state pursuant to this article shall be subject to garnishment, levy, execution, attachment, or other process, writ, including, but not limited to, a writ of mandate, or remedy in connection with the assertion or enforcement of any debt, claim, settlement, or judgment against the state, the bank board, the State Public Works Board, or the bank.

On or before the effective date of any sale, the state, acting through its Attorney General, upon direction of the bank, shall

notify the California escrow agent under the Master Settlement Agreement and the California escrow agreement that the sold tobacco assets have been sold to the special purpose trust and irrevocably instruct the California escrow agent that, as of the applicable effective date, the tobacco assets sold are to be paid directly to the trustee for the applicable bonds of the special purpose trust. The state pledges to and agrees with the holders of any bonds issued by the special purpose trust that it will not amend the Master Settlement Agreement, the memorandum of understanding, or the California escrow agreement, or take any other action, in any way that would alter, limit, or impair the rights to receive tobacco assets sold to the special purpose trust pursuant to this article, nor in any way impair the rights and remedies of bondholders or the security for their bonds until those bonds, together with the interest thereon and costs and expenses in connection with any action or proceeding on behalf of the bondholders, are fully paid and discharged. The state further pledges and agrees that it shall enforce its rights to collect all moneys due from the participating tobacco products manufacturers under the Master Settlement Agreement and, in addition, shall diligently enforce the model statute as contemplated in the Master Settlement Agreement (Article 3 (commencing with Section 104555) of Chapter 1 of Part 3 of Division 103 of the Health and Safety Code) against all tobacco product manufacturers selling tobacco products in the state and that are not signatories to the Master Settlement Agreement, in each case in the manner and to the extent necessary in the judgment of the Attorney General to collect all moneys to which the state is entitled under the Master Settlement Agreement. The special purpose trust may include these pledges and undertakings in its bonds. Notwithstanding these pledges and undertaking by the state, the Attorney General may in his or her discretion enforce any and all provisions of the Master Settlement Agreement, without limitation.

(b) Bonds issued pursuant to this article shall not be deemed to constitute a debt of the state or a pledge of the faith or credit of the state, and all bonds shall contain on the face thereof a statement to the effect that neither the faith and credit nor the taxing power nor any other assets or revenues of the state or of any political subdivision thereof, other than the special purpose trust, is or shall

be pledged to the payment of the principal of or the interest on the bonds.

(c) Whether or not the bonds are of a form and character as to be negotiable instruments under the terms of the Uniform Commercial Code, the bonds are hereby made negotiable instruments for all purposes, subject only to the provisions of the bonds for registration.

(d) The special purpose trust and the bank shall be treated as public agencies for purposes of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure, and any action or proceeding challenging the validity of any matter authorized by this article shall be brought in accordance with, and within the time specified in, that chapter.

(e) Notwithstanding any other provision of law, the exclusive means to obtain review of a superior court judgment entered in an action brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of any bonds to be issued, or any other contracts to be entered into, or any other matters authorized by this article, shall be by petition to the Supreme Court for writ of review. Any such petition shall be filed within 15 days following the notice of entry of the superior court judgment, and no extension of that period may be allowed. If no petition is filed within the time allowed therefore, or the petition is denied, with or without opinion, the decision of the superior court shall be final and enforceable as provided in subdivision (a) of Section 870 of the Code of Civil Procedure. In any case in which a petition has been filed within the time allowed therefor, the Supreme Court shall make any orders, as it may deem proper in the circumstances. If no answering party appeared in the superior court action, the only issues that may be raised in the petition are those related to the jurisdiction of the superior court.

SEC. 7. Section 1522 of the Health and Safety Code is amended to read:

1522. The Legislature recognizes the need to generate timely and accurate positive fingerprint identification of applicants as a condition of issuing licenses, permits, or certificates of approval for persons to operate or provide direct care services in a community care facility, foster family home, or a certified family home of a licensed foster family agency. Therefore, the

Legislature supports the use of the fingerprint live-scan technology, as identified in the long-range plan of the Department of Justice for fully automating the processing of fingerprints and other data by the year 1999, otherwise known as the California Crime Information Intelligence System (CAL-CII), to be used for applicant fingerprints. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with community care clients may pose a risk to the clients' health and safety.

(a) (1) Before issuing a license or special permit to any person or persons to operate or manage a community care facility, the State Department of Social Services shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in Section 290 of the Penal Code, for violating Section 245 or 273.5, subdivision (b) of Section 273a or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated.

(2) The criminal history information shall include the full criminal record, if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code.

(3) Except during the 2003–04 fiscal year, no fee shall be charged by the Department of Justice or the State Department of Social Services for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of the applicant pursuant to this section.

(4) The following shall apply to the criminal record information:

(A) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), has been convicted of a crime other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (g).

(B) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b) is awaiting trial for a crime other than a minor traffic violation, the

State Department of Social Services may cease processing the application until the conclusion of the trial.

(C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(D) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license may be revoked, unless the director grants an exemption pursuant to subdivision (g).

(E) An applicant and any other person specified in subdivision (b) shall submit a second set of fingerprints to the Department of Justice for the purpose of searching the criminal records of the Federal Bureau of Investigation, in addition to the criminal records search required by this subdivision. If an applicant and all other persons described in subdivision (b) meet all of the conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant or any of the persons described in subdivision (b), the department may issue a license if the applicant and each person described in subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction, as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the department determines that the licensee or any other person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1550. The department may also suspend the license pending an administrative hearing pursuant to Section 1550.5.

(b) (1) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(A) Adults responsible for administration or direct supervision of staff.

(B) Any person, other than a client, residing in the facility.

(C) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene. Any nurse assistant or home health aide meeting the requirements of Section 1338.5 or 1736.6, respectively, who is not employed, retained, or contracted by the licensee, and who has been certified or recertified on or after

July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section. A certified nurse assistant and certified home health aide who will be providing client assistance and who falls under this exemption shall provide one copy of his or her current certification, prior to providing care, to the community care facility. The facility shall maintain the copy of the certification on file as long as care is being provided by the certified nurse assistant or certified home health aide at the facility. Nothing in this paragraph restricts the right of the department to exclude a certified nurse assistant or certified home health aide from a licensed community care facility pursuant to Section 1558.

(D) Any staff person, volunteer, or employee who has contact with the clients.

(E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(F) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(2) The following persons are exempt from the requirements applicable under paragraph (1).

(A) A medical professional as defined in department regulations who holds a valid license or certification from the person's governing California medical care regulatory entity and who is not employed, retained, or contracted by the licensee if all of the following apply:

(i) The criminal record of the person has been cleared as a condition of licensure or certification by the person's governing California medical care regulatory entity.

(ii) The person is providing time-limited specialized clinical care or services.

(iii) The person is providing care or services within the person's scope of practice.

(iv) The person is not a community care facility licensee or an employee of the facility.

(B) A third-party repair person or similar retained contractor if all of the following apply:

(i) The person is hired for a defined, time-limited job.

(ii) The person is not left alone with clients.

(iii) When clients are present in the room in which the repairperson or contractor is working, a staff person who has a criminal record clearance or exemption is also present.

(C) Employees of a licensed home health agency and other members of licensed hospice interdisciplinary teams who have a contract with a client or resident of the facility and are in the facility at the request of that client or resident's legal decisionmaker. The exemption shall not apply to a person who is a community care facility licensee or an employee of the facility.

(D) Clergy and other spiritual caregivers who are performing services in common areas of the community care facility or who are advising an individual client at the request of, or with the permission of, the client or legal decisionmaker, are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption shall not apply to a person who is a community care licensee or employee of the facility.

(E) Members of fraternal, service, or similar organizations who conduct group activities for clients if all of the following apply:

(i) Members are not left alone with clients.

(ii) Members do not transport clients off the facility premises.

(iii) The same organization does not conduct group activities for clients more often than defined by the department's regulations.

(3) In addition to the exemptions in paragraph (2), the following persons in foster family homes, certified family homes, and small family homes are exempt from the requirements applicable under paragraph (1):

(A) Adult friends and family of the licensee who come into the home to visit for a length of time no longer than defined by the department in regulations, provided that the adult friends and family of the licensee are not left alone with the foster children.

(B) Parents of a foster child's friends when the foster child is visiting the friend's home and the friend, foster parent, or both are also present.

(4) In addition to the exemptions specified in paragraph (2), the following persons in adult day care and adult day support centers are exempt from the requirements applicable under paragraph (1):

(A) Unless contraindicated by the client's individualized program plan (IPP) or needs and service plan, a spouse, significant other, relative, or close friend of a client, or an attendant or a facilitator for a client with a developmental disability if the attendant or facilitator is not employed, retained, or contracted by the licensee. This exemption applies only if the person is visiting the client or providing direct care and supervision to the client.

(B) A volunteer if all of the following applies:

(i) The volunteer is supervised by the licensee or a facility employee with a criminal record clearance or exemption.

(ii) The volunteer is never left alone with clients.

(iii) The volunteer does not provide any client assistance with dressing, grooming, bathing, or personal hygiene other than washing of hands.

(5) (A) In addition to the exemptions specified in paragraph (2), the following persons in adult residential and social rehabilitation facilities, unless contraindicated by the client's individualized program plan (IPP) or needs and services plan, are exempt from the requirements applicable under paragraph (1): a spouse, significant other, relative, or close friend of a client, or an attendant or a facilitator for a client with a developmental disability if the attendant or facilitator is not employed, retained, or contracted by the licensee. This exemption applies only if the person is visiting the client or providing direct care and supervision to that client.

(B) Nothing in this subdivision shall prevent a licensee from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has client contact.

(6) Any person similar to those described in this subdivision, as defined by the department in regulations.

(c) (1) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a community care facility, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints to the Department of Justice, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, or to comply with paragraph (1) of subdivision (h), prior to the person's

employment, residence, or initial presence in the community care facility. These fingerprints shall be on a card provided by the State Department of Social Services or sent by electronic transmission in a manner approved by the State Department of Social Services and the Department of Justice for the purpose of obtaining a permanent set of fingerprints, and shall be submitted to the Department of Justice by the licensee. A licensee's failure to submit fingerprints to the Department of Justice or to comply with paragraph (1) of subdivision (h), as required in this section, shall result in the citation of a deficiency and the immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation. The department may assess civil penalties for continued violations as permitted by Section 1548. The fingerprints shall then be submitted to the State Department of Social Services for processing. Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprints.

(2) Within 14 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in subdivision (a). If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprints. Documentation of the individual's clearance or exemption shall be maintained by the licensee and be available for inspection. If new fingerprints are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible. When live-scan technology is operational, as defined in Section 1522.04, the Department of Justice shall notify the State Department of Social Services, as required by that section, and shall also notify the licensee by mail, within 14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal history recorded. A violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation. The department may assess civil penalties for continued violations as permitted by Section 1548.

(3) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of, or is awaiting trial for, a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d, 273g, or 368 of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility. The State Department of Social Services may subsequently grant an exemption pursuant to subdivision (g). If the conviction or arrest was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (2) seek an exemption pursuant to subdivision (g). The State Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall be grounds for disciplining the licensee pursuant to Section 1550.

(4) The department may issue an exemption on its own motion pursuant to subdivision (g) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption pursuant to this paragraph.

(5) Concurrently with notifying the licensee pursuant to paragraph (3), the department shall notify the affected individual of his or her right to seek an exemption pursuant to subdivision (g). The individual may seek an exemption only if the licensee terminates the person's employment or removes the person from

the facility after receiving notice from the department pursuant to paragraph (3).

(d) (1) Before issuing a license, special permit, or certificate of approval to any person or persons to operate or manage a foster family home or certified family home as described in Section 1506, the State Department of Social Services or other approving authority shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in Section 290 of the Penal Code, for violating Section 245 or 273.5, subdivision (b) of Section 273a or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated.

(2) The criminal history information shall include the full criminal record, if any, of those persons.

(3) No fee shall be charged by the Department of Justice or the State Department of Social Services for the fingerprinting of an applicant for a license, special permit, or certificate of approval described in this subdivision. The record, if any, shall be taken into consideration when evaluating a prospective applicant.

(4) The following shall apply to the criminal record information:

(A) If the applicant or other persons specified in subdivision (b) have convictions that would make the applicant's home unfit as a foster family home or a certified family home, the license, special permit, or certificate of approval shall be denied.

(B) If the State Department of Social Services finds that the applicant, or any person specified in subdivision (b) is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services or other approving authority may cease processing the application until the conclusion of the trial.

(C) For the purposes of this subdivision, a criminal record clearance provided under Section 8712 of the Family Code may be used by the department or other approving agency.

(D) An applicant for a foster family home license or for certification as a family home, and any other person specified in subdivision (b), shall submit a set of fingerprints to the Department of Justice for the purpose of searching the criminal records of the

Federal Bureau of Investigation, in addition to the criminal records search required by subdivision (a). If an applicant meets all other conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant and all persons described in subdivision (b), the department may issue a license, or the foster family agency may issue a certificate of approval, if the applicant, and each person described in subdivision (b), has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction, as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure or certification, the department determines that the licensee, certified foster parent, or any person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1550 and the certificate of approval revoked pursuant to subdivision (b) of Section 1534. The department may also suspend the license pending an administrative hearing pursuant to Section 1550.5.

(5) Any person specified in this subdivision shall, as a part of the application, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions or arrests for any crime against a child, spousal or cohabitant abuse or, any crime for which the department cannot grant an exemption if the person was convicted and shall submit these fingerprints to the licensing agency or other approving authority.

(6) (A) The foster family agency shall obtain fingerprints from certified home applicants and from persons specified in subdivision (b) and shall submit them directly to the Department of Justice or send them by electronic transmission in a manner approved by the State Department of Social Services. A foster family home licensee or foster family agency shall submit these fingerprints to the Department of Justice, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation or to comply with paragraph (1) of subdivision (b) prior to the person's employment, residence, or initial presence. A licensee's failure to submit fingerprints to the Department of Justice, or comply with paragraph (1) of subdivision (h), as required in this section, shall result in a citation of a deficiency, and the immediate civil penalties of one hundred dollars ($100) per violation. The State Department of Social

Services may assess penalties for continued violations, as permitted by Section 1548. The fingerprints shall then be submitted to the State Department of Social Services for processing.

(B) Upon request of the licensee, who shall enclose a self-addressed envelope for this purpose, the Department of Justice shall verify receipt of the fingerprints. Within five working days of the receipt of the criminal record or information regarding criminal convictions from the Department of Justice, the department shall notify the applicant of any criminal arrests or convictions. If no arrests or convictions are recorded, the Department of Justice shall provide the foster family home licensee or the foster family agency with a statement of that fact concurrent with providing the information to the State Department of Social Services.

(7) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), has been convicted of a crime other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (g).

(8) If the State Department of Social Services finds after licensure or the granting of the certificate of approval that the licensee, certified foster parent, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license or certificate of approval may be revoked by the department or the foster family agency, whichever is applicable, unless the director grants an exemption pursuant to subdivision (g). A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by paragraph (3) of subdivision (c) shall be grounds for disciplining the licensee pursuant to Section 1550.

(e) The State Department of Social Services shall not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client. The State Department of Social Services is

authorized to obtain any arrest or conviction records or reports from any law enforcement agency as necessary to the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

(f) (1) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the State Department of Social Services is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of the conviction, notwithstanding any other provision of law prohibiting the admission of these documents in a civil or administrative action.

(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(g) (1) After review of the record, the director may grant an exemption from disqualification for a license or special permit as specified in paragraphs (1) and (4) of subdivision (a), or for a license, special permit, or certificate of approval as specified in paragraphs (4) and (5) of subdivision (d), or for employment, residence, or presence in a community care facility as specified in paragraphs (3), (4), and (5) of subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief

that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). Except as otherwise provided in this subdivision, no exemption shall be granted pursuant to this subdivision if the conviction was for any of the following offenses:

(A) (i) An offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273d, 288, or 289, subdivision (a) of Section 290, or Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(ii) Notwithstanding clause (i), the director may grant an exemption regarding the conviction for an offense described in paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5 of the Penal Code, if the employee or prospective employee has been rehabilitated as provided in Section 4852.03 of the Penal Code, has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years, and has the recommendation of the district attorney representing the employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(B) A felony offense specified in Section 729 of the Business and Professions Code or Section 206 or 215, subdivision (a) of Section 347, subdivision (b) of Section 417, or subdivision (a) of Section 451 of the Penal Code.

(2) The department shall not prohibit a person from being employed or having contact with clients in a facility on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1558.

(h) (1) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal record clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another facility licensed by a state licensing district office. The request shall be in writing to the State Department of

Social Services, and shall include a copy of the person's driver's license or valid identification card issued by the Department of Motor Vehicles, or a valid photo identification issued by another state or the United States government if the person is not a California resident. Upon request of the licensee, who shall enclose a self-addressed envelope for this purpose, the State Department of Social Services shall verify whether the individual has a clearance that can be transferred.

(2) The State Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearance to be transferred.

(i) The full criminal record obtained for purposes of this section may be used by the department or by a licensed adoption agency as a clearance required for adoption purposes.

(j) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1558, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

(k) (1) The Department of Justice shall coordinate with the State Department of Social Services to establish and implement an automated live-scan processing system for fingerprints in the district offices of the Community Care Licensing Division of the State Department of Social Services by July 1, 1999. These live-scan processing units shall be connected to the main system at the Department of Justice by July 1, 1999, and shall become part of that department's pilot project in accordance with its long-range plan. The State Department of Social Services may charge a fee for the costs of processing a set of live-scan fingerprints.

(2) The Department of Justice shall provide a report to the Senate and Assembly fiscal committees, the Assembly Human Services Committee, and to the Senate Health and Human Services Committee by April 15, 1999, regarding the completion of backlogged criminal record clearance requests for all facilities licensed by the State Department of Social Services and the progress on implementing the automated live-scan processing system in the two district offices pursuant to paragraph (1).

(*l*) Amendments to this section made in the 1999 portion of the 1999–2000 Regular Session shall be implemented commencing 60 days after the effective date of the act amending this section in the 1999 portion of the 1999–2000 Regular Session, except that those provisions for the submission of fingerprints for searching the records of the Federal Bureau of Investigation shall be implemented 90 days after the effective date of that act.

SEC. 8. Section 1523.1 of the Health and Safety Code is amended to read:

1523.1. (a) (1) A fee adjusted by facility and capacity shall be charged by the department for the issuance of an original license or special permit or for processing any application therefor. After initial licensure, the fee shall be charged by the department annually on each anniversary of the effective date of the license or special permit. The fee is for the purpose of financing a portion of the application and annual processing costs and the activities specified in subdivision (b). The fee shall be assessed as follows:

Fee Schedule

Facility Type	Capacity	Original Application	Annual
Foster Family and Adoption Agencies		$1,250	$1,250
Other Community Care Facilities, Except Adult Day Programs	1–6	$375	$375
	7–15	$563	$563
	16–49	$750	$750
	50+	$938	$938
Adult Day Programs	1–15	$75	$75
	16–30	$125	$125
	31–60	$250	$250
	61–75	$313	$313
	76–90	$375	$375
	91–120	$500	$500
	121+	$625	$625

(2) Foster family homes shall be exempt from the fees imposed pursuant to this subdivision.

(3) Foster family agencies and their suboffices shall be annually assessed eighty dollars ($80) for each home certified by the agency or suboffice.

(4) No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a facility licensed under this chapter which serves six or fewer persons.

(b) (1) The revenues collected from licensing fees pursuant to this section shall be utilized by the department to fund increased assistance and monitoring of facilities with a history of noncompliance with licensing laws and regulations pursuant to this chapter, and other administrative activities in support of the licensing program, when appropriated for these purposes. The revenues collected shall be used in addition to any other funds appropriated in the Budget Act in support of the licensing program.

(2) The department shall not utilize any portion of these revenues sooner than 30 days after notification in writing of the purpose and use of this revenue, as approved by the Director of Finance, to the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the committee in each house that considers appropriations for each fiscal year. For fiscal year 1992–93 and thereafter, the department shall submit a budget change proposal to justify any positions or any other related support costs on an ongoing basis.

(c) A facility may use a bona fide business check to pay the license fee required under this section.

(d) Failure to pay required license fees, including the finding of insufficient funds to cover bona fide business checks submitted for the purpose shall constitute grounds for denial of a license or special permit or forfeiture of a license or special permit.

SEC. 9. Section 1523.2 of the Health and Safety Code is amended to read:

1523.2. (a) Beginning with the 1996–97 fiscal year, there is hereby created in the State Treasury the Technical Assistance Fund, from which money, upon appropriation by the Legislature in the Budget Act, shall be expended by the department to fund the creation and maintenance of new licensing staff positions to provide technical assistance to licensees paying fees pursuant to those sections specified in subdivision (b).

(b) In each fiscal year for fees collected by the department pursuant to Sections 1523.1, 1569.185, and 1596.803, that, in the aggregate, after deducting for administrative costs, total more than six million dollars ($6,000,000), the excess of six million dollars ($6,000,000) shall be expended by the department to fund the creation and maintenance of new licensing staff positions to provide technical assistance to licensees paying fees pursuant to the above specified sections.

(c) Notwithstanding subdivision (b), when revenues in the Technical Assistance Fund reach three million two hundred thirty-seven thousand dollars ($3,237,000) any fees collected over that amount shall remain in the General Fund.

SEC. 10. Section 1534 of the Health and Safety Code is amended to read:

1534. (a) (1) Every licensed community care facility shall be subject to unannounced visits by the department. The department shall visit these facilities as often as necessary to ensure the quality of care provided.

(A) The department shall conduct an annual unannounced visit to a facility under any of the following circumstances:

(i) When a license is on probation.

(ii) When the terms of agreement in a facility compliance plan require an annual evaluation.

(iii) When an accusation against a licensee is pending.

(iv) When a facility requires an annual visit as a condition of receiving federal financial participation.

(v) In order to verify that a person who has been ordered out of a facility by the department is no longer at the facility.

(B) The department shall conduct annual unannounced visits to no less than 10 percent of facilities not subject to an evaluation under subparagraph (A). These unannounced visits shall be conducted based on a random sampling methodology developed by the department. If the total citations issued by the department exceed the previous year’s total by 10 percent, the following year the department shall increase the random sample by an additional 10 percent of the facilities not subject to an evaluation under subparagraph (A). The department may request additional resources to increase the random sample by 10 percent.

(C) Under no circumstance shall the department visit a community care facility less often than once every five years.

(D) In order to facilitate direct contact with group home clients, the department may interview children who are clients of group homes at any public agency or private agency at which the client may be found, including, but not limited to, a juvenile hall, recreation or vocational program, or a nonpublic school. The department shall respect the rights of the child while conducting the interview, including informing the child that he or she has the right not to be interviewed and the right to have another adult present during the interview.

(2) The department shall notify the community care facility in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

(3) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection in the county in which the facility is located.

(b) (1) Nothing in this section shall limit the authority of the department to inspect or evaluate a licensed foster family agency, a certified family home, or any aspect of a program where a licensed community care facility is certifying compliance with licensing requirements.

(2) Upon a finding of noncompliance by the department, the department may require a foster family agency to deny or revoke the certificate of approval of a certified family home, or take other action the department may deem necessary for the protection of a child placed with the family home. The family home shall be afforded the due process provided pursuant to this chapter.

(3) If the department requires a foster family agency to deny or revoke the certificate of approval, the department shall serve an order of denial or revocation upon the certified or prospective foster parent and foster family agency that shall notify the certified or prospective foster parent of the basis of the department's action and of the certified or prospective foster parent's right to a hearing.

(4) Within 15 days after the department serves an order of denial or revocation, the certified or prospective foster parent may file a written appeal of the department's decision with the department. The department's action shall be final if the certified

or prospective foster parent does not file a written appeal within 15 days after the department serves the denial or revocation order.

(5) The department's order of the denial or revocation of the certificate of approval shall remain in effect until the hearing is completed and the director has made a final determination on the merits.

(6) A certified or prospective foster parent who files a written appeal of the department's order with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The certified or prospective foster parent shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

(7) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. In all proceedings conducted in accordance with this section the standard of proof shall be by a preponderance of the evidence.

(8) The department may institute or continue a disciplinary proceeding against a certified or prospective foster parent upon any ground provided by this section, enter an order denying or revoking the certificate of approval, or otherwise take disciplinary action against the certified or prospective foster parent, notwithstanding any resignation, withdrawal of application, surrender of the certificate of approval, or denial or revocation of the certificate of approval by the foster family agency.

(9) A foster family agency's failure to comply with the department's order to deny or revoke the certificate of employment by placing or retaining children in care shall be grounds for disciplining the licensee pursuant to Section 1550.

SEC. 11. Section 1568.05 of the Health and Safety Code is amended to read:

1568.05. (a) An annual fee adjusted by capacity shall be charged by the department for a license to operate a residential care facility or for processing any application therefor and, thereafter, shall be charged on each anniversary of the effective date of the license. The fee shall be assessed as follows:

Capacity	Annual Fee
1–6	$250 plus $10 per bed
7–15	$313 plus $10 per bed
16–25	$375 plus $10 per bed
26–50	$438 plus $10 per bed

(b) No local governmental entity shall impose any business license, fee, or tax for the privilege of operating a facility licensed under this chapter which serves six or fewer persons.

(c) All fees collected pursuant to subdivision (a) shall be deposited in the Residential Care Facilities for Persons with Chronic, Life-Threatening Illness Fund, which is hereby created in the State Treasury. Moneys in the fund, upon an appropriation made in the annual Budget Act, shall be available to the department for the purposes specified in subdivision (d).

(d) The fund may be used for the purpose of financing a portion of the license application processing costs. In addition, the fund may be utilized by the department to finance postlicensure inspections pursuant to Section 1568.07, to allow increased monitoring of facilities with a history of noncompliance with this chapter and regulations adopted pursuant to this chapter, and other administrative activities in support of the licensing program administered pursuant to this chapter. The revenues collected in the fund shall be used in addition to any other moneys appropriated for the purposes specified in this subdivision.

(e) Fees established pursuant to this section shall not be effective unless licensing fees are established for all adult residential facilities licensed by the department.

(f) A residential care facility may use a bona fide business check to pay the license fee required under this section.

(g) Failure to pay required license fees, including the finding of insufficient funds to cover bona fide business checks submitted for this purpose, may constitute grounds for denial or revocation of a license.

SEC. 12. Section 1569.185 of the Health and Safety Code is amended to read:

1569.185. (a) A fee adjusted by facility and capacity shall be charged by the department for the issuance of an original license to operate a residential care facility for the elderly or for processing any application therefor. After initial licensure, the fee shall be

charged by the department annually on each anniversary of the effective date of the license or special permit. The amount of the fee is for the purpose of financing a portion of the application and annual processing costs and the activities specified in subdivision (b). The fee shall be assessed as follows:

Fee Schedule

Capacity	Original Application	Annual
1–6	$375	$375
7–15	$563	$563
16–49	$750	$750
50+	$938	$938

No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a facility licensed under this chapter which serves six or fewer persons.

(b) (1) The revenues collected from licensing fees pursuant to this section when appropriated, shall be utilized by the department, to allow increased assistance and monitoring of facilities with a history of noncompliance with licensing laws and regulations pursuant to this chapter, and other administrative activities in support of the licensing program. The revenues collected shall be used in addition to any other funds appropriated in support of the licensing program.

(2) The department shall not utilize any portion of these revenues sooner than 30 days after notification in writing of the purpose and use, as approved by the Department of Finance, to the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the committee in each house that considers appropriations for each fiscal year. For fiscal year 1992–93 and thereafter, the department shall submit a budget change proposal to justify any positions or any other related support costs on an ongoing basis.

(c) A residential care facility for the elderly may use a bona fide business check to pay the license fee required under this section.

(d) Failure to pay required license fees, including the finding of insufficient funds to cover bona fide business checks submitted

for this purpose, shall constitute grounds for denial of a license or special permit or forfeiture of a license or special permit.

SEC. 13. Section 1569.33 of the Health and Safety Code is amended to read:

1569.33. (a) Every licensed residential care facility for the elderly shall be subject to unannounced visits by the department. The department shall visit these facilities as often as necessary to ensure the quality of care provided.

(b) The department shall conduct an annual unannounced visit of a facility under any of the following circumstances:

(1) When a license is on probation.

(2) When the terms of agreement in a facility compliance plan require an annual evaluation.

(3) When an accusation against a licensee is pending.

(4) When a facility requires an annual visit as a condition of receiving federal financial participation.

(5) In order to verify that a person who has been ordered out of the facility for the elderly by the department is no longer at the facility.

(c) The department shall conduct annual unannounced visits to no less than 10 percent of facilities not subject to an evaluation under subdivision (b). These unannounced visits shall be conducted based on a random sampling methodology developed by the department. If the total citations issued by the department exceed the previous year's total by 10 percent, the following year the department shall increase the random sample by 10 percent of facilities not subject to an evaluation under subdivision (b). The department may request additional resources to increase the random sample by 10 percent.

(d) Under no circumstance shall the department visit a residential care facility for the elderly less often than once every five years.

(e) The department shall notify the residential care facility for the elderly in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

(f) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and

plans of correction shall be open to public inspection in the county in which the facility is located.

(g) As a part of the department's annual evaluation process, the department shall review the plan of operation, training logs, and marketing materials of any residential care facility for the elderly that advertises or promotes special care, special programming, or a special environment for persons with dementia to monitor compliance with Sections 1569.626 and 1569.627.

SEC. 14. Section 1596.803 of the Health and Safety Code is amended to read:

1596.803. (a) (1) A fee adjusted by facility and capacity shall be charged by the department for the issuance of an original license to operate a child day care facility or for processing any application therefor. After initial licensure, the fee shall be charged by the department annually. The amount of the fee is for the purpose of financing a portion of the application and annual processing costs and the activities specified in subdivision (b). The fee shall be assessed as follows:

Fee Schedule

Facility Type	Capacity	Original Application	Annual Fee
Family Day Care	1–8	$50	$50
	9–14	$100	$100
Day Care Centers	1–30	$200	$200
	31–60	$400	$400
	61–75	$500	$500
	76–90	$600	$600
	91–120	$800	$800
	121+	$1,000	$1,000

(2)No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a small family day care home licensed under this act.

(b) (1) The revenues collected from licensing fees pursuant to this section, when appropriated, shall be utilized by the department to allow increased assistance and monitoring of facilities with a history of noncompliance with licensing laws and regulations pursuant to this act, and other administrative activities in support

of the licensing program. The revenues collected shall be used in addition to any other funds appropriated in support of the licensing program.

(2) The department shall not utilize any portion of these revenues sooner than 30 days after notification in writing of the purpose and use, as approved by the Department of Finance, to the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the committee in each house that considers appropriations for each fiscal year. For fiscal year 1992–93 and thereafter, the department shall submit a budget change proposal to justify any positions or any other related support costs on an ongoing basis.

(c) A child day care facility may use a bona fide business or personal check to pay the license fee required under this section.

(d) Failure to pay required license fees, including the finding of insufficient funds to cover bona fide business or personal checks submitted for this purpose, shall constitute grounds for denial of a license or special permit or forfeiture of a license or special permit.

(e) The department shall assess the fees on an annual basis and may set time periods to spread the licensee's due dates throughout the year. The fees shall be considered delinquent 30 days after the billing date.

SEC. 15. Section 1596.871 of the Health and Safety Code is amended to read:

1596.871. The Legislature recognizes the need to generate timely and accurate positive fingerprint identification of applicants as a condition of issuing licenses, permits, or certificates of approval for persons to operate or provide direct care services in a child care center or family child care home. Therefore, the Legislature supports the use of the fingerprint live-scan technology, as defined in the long-range plan of the Department of Justice for fully automating the processing of fingerprints and other data by the year 1999, otherwise known as the California Crime Information Intelligence System (CAL-CII), to be used for applicant fingerprints. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with child day care facility clients may pose a risk to the children's health and safety.

(a) (1) Before issuing a license or special permit to any person to operate or manage a day care facility, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in Section 290 of the Penal Code, for violating Section 245 or 273.5, subdivision (b) of Section 273a or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated.

(2) The criminal history information shall include the full criminal record, if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code.

(3) Except during the 2003–04 fiscal year, no fee shall be charged by the Department of Justice or the department for the fingerprinting of an applicant who will serve six or fewer children or any family day care applicant for a license, or for obtaining a criminal record of an applicant pursuant to this section.

(4) The following shall apply to the criminal record information:

(A) If the State Department of Social Services finds that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (f).

(B) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services may cease processing the application until the conclusion of the trial.

(C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(D) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license may be revoked, unless the director grants an exemption pursuant to subdivision (f).

(E) An applicant and any other person specified in subdivision (b) shall submit a second set of fingerprints to the Department of Justice, for the purpose of searching the records of the Federal Bureau of Investigation, in addition to the search required by subdivision (a). If an applicant meets all other conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant and persons listed in subdivision (b), the department may issue a license if the applicant and each person described by subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the department determines that the licensee or person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1596.885. The department may also suspend the license pending an administrative hearing pursuant to Section 1596.886.

(b) (1) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(A) Adults responsible for administration or direct supervision of staff.

(B) Any person, other than a child, residing in the facility.

(C) Any person who provides care and supervision to the children.

(D) Any staff person, volunteer, or employee who has contact with the children.

(i) A volunteer providing time-limited specialized services shall be exempt from the requirements of this subdivision if this person is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption, the volunteer spends no more than 16 hours per week at the facility, and the volunteer is not left alone with children in care.

(ii) A student enrolled or participating at an accredited educational institution shall be exempt from the requirements of this subdivision if the student is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption, the facility has an agreement with the educational institution concerning the placement of the student, the student spends no more than 16 hours per week at the facility, and the student is not left alone with children in care.

(iii) A volunteer who is a relative, legal guardian, or foster parent of a client in the facility shall be exempt from the requirements of this subdivision.

(iv) A contracted repair person retained by the facility, if not left alone with children in care, shall be exempt from the requirements of this subdivision.

(v) Any person similar to those described in this subdivision, as defined by the department in regulations.

(E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer, other person serving in like capacity, or a person designated by the chief executive officer as responsible for the operation of the facility, as designated by the applicant agency.

(F) If the applicant is a local educational agency, the president of the governing board, the school district superintendent, or a person designated to administer the operation of the facility, as designated by the local educational agency.

(G) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(H) This section does not apply to employees of child care and development programs under contract with the State Department of Education who have completed a criminal records clearance as part of an application to the Commission on Teacher Credentialing, and who possess a current credential or permit issued by the commission, including employees of child care and development programs that serve both children subsidized under, and children not subsidized under, a State Department of Education contract. The Commission on Teacher Credentialing shall notify the department upon revocation of a current credential or permit issued to an employee of a child care and development program under contract with the State Department of Education.

(I) This section does not apply to employees of a child care and development program operated by a school district, county office of education, or community college district under contract with the State Department of Education who have completed a criminal record clearance as a condition of employment. The school

district, county office of education, or community college district upon receiving information that the status of an employee's criminal record clearance has changed shall submit that information to the department.

(2) Nothing in this subdivision shall prevent a licensee from requiring a criminal record clearance of any individuals exempt from the requirements under this subdivision.

(c) (1) (A) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a child day care facility be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal conviction. The licensee shall submit these fingerprints to the Department of Justice, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, or to comply with paragraph (1) of subdivision (h), prior to the person's employment, residence, or initial presence in the child day care facility.

(B) These fingerprints shall be on a card provided by the State Department of Social Services for the purpose of obtaining a permanent set of fingerprints and submitted to the Department of Justice by the licensee or sent by electronic transmission in a manner approved by the State Department of Social Services. A licensee's failure to submit fingerprints to the Department of Justice, or to comply with paragraph (1) of subdivision (h), as required in this section, shall result in the citation of a deficiency, and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation. The State Department of Social Services may assess civil penalties for continued violations permitted by Sections 1596.99 and 1597.62. The fingerprints shall then be submitted to the State Department of Social Services for processing. Within 14 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice shall, within 14 calendar days from the date

of receipt of the fingerprints, notify the licensee that the fingerprints were illegible.

(C) Documentation of the individual's clearance or exemption shall be maintained by the licensee, and shall be available for inspection. When live-scan technology is operational, as defined in Section 1522.04, the Department of Justice shall notify the department, as required by that section, and notify the licensee by mail within 14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal record. Any violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation. The department may assess civil penalties for continued violations, as permitted by Sections 1596.99 and 1597.62.

(2) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the department, on the basis of fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, an offense specified in Section 243.4, 273a, 273d, 273g, or 368 of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility. The department may subsequently grant an exemption pursuant to subdivision (f). If the conviction was for another crime except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility; or (2) seek an exemption pursuant to subdivision (f). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall be grounds for disciplining the licensee pursuant to Section 1596.885 or 1596.886.

(3) The department may issue an exemption on its own motion pursuant to subdivision (f) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption pursuant to this paragraph.

(4) Concurrently with notifying the licensee pursuant to paragraph (3), the department shall notify the affected individual of his or her right to seek an exemption pursuant to subdivision (f). The individual may seek an exemption only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (3).

(d) (1) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of conviction, notwithstanding any other provision of law prohibiting the admission of these documents in a civil or administrative action.

(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(e) The State Department of Social Services shall not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client. The State Department of Social Services is authorized to obtain any arrest or conviction records or reports from any law enforcement agency as necessary to the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

(f) (1) After review of the record, the director may grant an exemption from disqualification for a license or special permit as specified in paragraphs (1) and (4) of subdivision (a), or for employment, residence, or presence in a child day care facility as specified in paragraphs (3), (4), and (5) of subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of good character so as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for any of the following offenses:

(A) An offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273d, 288, or 289, subdivision (a) of Section 290, or Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(B) A felony offense specified in Section 729 of the Business and Professions Code or Section 206 or 215, subdivision (a) of Section 347, subdivision (b) of Section 417, or subdivision (a) or (b) of Section 451 of the Penal Code.

(2) The department shall not prohibit a person from being employed or having contact with clients in a facility on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1596.8897.

(g) Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprints.

(h) (1) For the purposes of compliance with this section, the department may permit an individual to transfer a current criminal record clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another facility licensed by a state licensing district office. The request shall be in writing to the department, and shall include a copy of the person's driver's license or valid identification card issued by the Department of Motor Vehicles, or a valid photo identification issued by another state or the United States government if the person is not a California resident. Upon request of the licensee, who shall enclose a self-addressed stamped envelope for this purpose, the department shall verify whether the individual has a clearance that can be transferred.

(2) The State Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearances to be transferred.

(i) Amendments to this section made in the 1998 calendar year shall be implemented commencing 60 days after the effective date of the act amending this section in the 1998 calendar year, except those provisions for the submission of fingerprints for searching the records of the Federal Bureau of Investigation, which shall be implemented commencing January 1, 1999.

SEC. 16. Section 1597.09 of the Health and Safety Code is amended to read:

1597.09. (a) Each licensed child day care center shall be subject to unannounced visits by the department. The department shall visit these facilities as often as necessary to ensure the quality of care provided.

(b) The department shall conduct an annual unannounced visit to a licensed child day care center under any of the following circumstances:

(1) When a license is on probation.

(2) When the terms of agreement in a facility compliance plan require an annual evaluation.

(3) When an accusation against a licensee is pending.

(4) In order to verify that a person who has been ordered out of a child day care center by the department is no longer at the facility.

(c) The department shall conduct an annual unannounced visit to no less than 10 percent of facilities not subject to an evaluation under subdivision (b). These unannounced visits shall be conducted based on a random sampling methodology developed by the department. If the total citations issued by the department exceed the previous year's total by 10 percent, the following year the department shall increase the random sample by 10 percent of facilities not subject to an evaluation under subdivision (b). The department may request additional resources to increase the random sample by 10 percent.

(d) Under no circumstance shall the department visit a licensed child day care center less often than once every five years.

SEC. 17. Section 1597.55a of the Health and Safety Code is amended to read:

1597.55a. Every family day care home shall be subject to unannounced visits by the department as provided in this section. The department shall visit these facilities as often as necessary to ensure the quality of care provided.

(a) The department shall conduct an announced site visit prior to the initial licensing of the applicant.

(b) The department shall conduct an annual unannounced visit to a facility under any of the following circumstances:

(1) When a license is on probation.

(2) When the terms of agreement in a facility compliance plan require an annual evaluation.

(3) When an accusation against a licensee is pending.

(4) In order to verify that a person who has been ordered out of a family day care home by the department is no longer at the facility.

(c) The department shall conduct annual unannounced visits to no less than 10 percent of facilities not subject to an evaluation under subdivision (b). These unannounced visits shall be conducted based on a random sampling methodology developed by the department. If the total citations issued by the department exceed the previous year's total by 10 percent, the following year the department shall increase the random sample by 10 percent of the facilities not subject to an evaluation under subdivision (b).

The department may request additional resources to increase the random sample by 10 percent.

(d) Under no circumstance shall the department visit a licensed family day care home less often than once every five years.

(e) A public agency under contract with the department may make spot checks if it does not result in any cost to the state. However, spot checks shall not be required by the department.

(f) The department or licensing agency shall make an unannounced site visit on the basis of a complaint and a followup visit as provided in Section 1596.853.

(g) An unannounced site visit shall adhere to both of the following conditions:

(1) The visit shall take place only during the facility's normal business hours or at any time family day care services are being provided.

(2) The inspection of the facility shall be limited to those parts of the facility in which family day care services are provided or to which the children have access.

(h) The department shall implement this section during periods that Section 1597.55b is not being implemented in accordance with Section 18285.5 of the Welfare and Institutions Code.

SEC. 18. Section 1597.55b of the Health and Safety Code is amended to read:

1597.55b. No site visits, unannounced visits, or spot checks, shall be made under this chapter except as provided in this section.

(a) An announced site visit shall be required prior to the licensing of the applicant.

(b) A public agency under contract with the department may make spot checks if they do not result in any cost to the state. However, spot checks shall not be required by the department.

(c) An unannounced site visit to all licensed family day care homes shall be made annually and as often as necessary to ensure compliance.

(d) The department or licensing agency shall make an unannounced site visit on the basis of a complaint and a followup visit as provided in Section 1596.853. At no time shall other site visit requirements described by this section prevent a timely site visit response to a complaint.

(e) The department shall annually make unannounced spot visits on 20 percent of all family day care homes for children

licensed under this chapter. The unannounced visits may be made at any time, and shall be in addition to the visits required by subdivisions (b) and (c).

(f) An unannounced site visit shall comply with both of the following conditions:

(1) The visit shall take place only during the facility's normal business hours or at any time family day care services are being provided.

(2) The inspection of the facility shall be limited to those parts of the facility in which family day care services are provided or to which the children have access.

(g) The department shall implement this section only to the extent funds are available in accordance with Section 18285.5 of the Welfare and Institutions Code.

SEC. 18.5. Section 11970.35 is added to the Health and Safety Code, to read:

11970.35. (a) Any funding provided for this chapter in the 2003 Budget Act, and in subsequent fiscal years, shall be allocated, to counties that participated, in this program during the 2002–03 fiscal year in accordance with this section.

(b) A county may use funds, described in subdivision (a) to support drug courts serving adult offenders, subject to both of the following conditions:

(1) Any increased funding provided in the 2003 Budget Act that exceeds the funding level provided in the 2002 Budget Act shall be used exclusively to support drug courts that accept only defendants who have been convicted of felonies and placed on formal probation, conditioned on their participation in the drug court program. These drug courts shall operate in a manner that is consistent with the guidelines developed by the Drug Court Partnership Executive Steering Committee and approved by the department.

(2) The amount of funds identified in the county's most recent local plan, as of May 20, 2003, as supporting drug courts described in subparagraph (A) of paragraph (2) of subdivision (a) of Section 11970.2 shall be used exclusively to support drug courts that accept only defendants who have been convicted of felonies and placed on formal probation, conditioned on their participation in the drug court program or for preplea drug courts that accept only felons who may not be eligible for another treatment program,

such as a program pursuant to Section 1210.1 of the Penal Code, if they fail to complete drug court. Both preplea and postplea courts shall operate in a manner that is consistent with guidelines developed by the Drug Court Partnership Executive Steering Committee and approved by the department.

(c) The department shall transfer funds on a reimbursement basis to counties whose local plans are approved. No reimbursement shall be made unless and until the drug court is in full and complete compliance with all the data reporting requirements of the department and the Judicial Council.

(d) If funds are withheld for failure to comply with the requirements of this article for a period of more than six months, that county's funding shall be terminated and the remaining funds shall be redistributed to the remaining participating counties for the purpose of increasing the number of defendants participating in each drug court program. Redistributed funds may only be used to fund drug courts serving adult offenders subject to the requirements of subdivision (b).

(e) A county may choose to decline funding to support drug courts serving adult offenders pursuant to subparagraph (A) of paragraph (2) of subdivision (a) of Section 11970.2, and may receive funding only for drug courts described in subparagraphs (B), (C), (D), and (E) of paragraph (2) of subdivision (a) of Section 11970.2, in the amount identified in the county's most recent local plan, as of May 20, 2003, as supporting those drug courts. Any funds not allocated as a result of a county selecting the option under this subdivision shall be reallocated to counties willing to receive and expend the funds under the conditions specified in subdivision (a).

SEC. 19. Section 11970.4 of the Health and Safety Code is amended to read:

11970.4. This article shall remain operative only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

SEC. 19.3. Section 104558 is added to the Health and Safety Code, to read:

104558. (a) In order to secure and protect the moneys to be received as a result of the Master Settlement Agreement, as defined in subdivision (e) of Section 104556, in civil litigation

under any legal theory involving a signatory, successor of a signatory, or an affiliate of a signatory to the Master Settlement Agreement that has not been brought to trial as of the effective date of this section, the amount of the required undertaking, bond, or equivalent surety to be furnished during the pendency of an appeal or any discretionary appellate review of any judgment granting legal, equitable, or any other form of relief in order to stay the execution thereon during the entire course of the appellate review shall be set in accordance with applicable laws and rules of the court, except that the total undertaking, bond, or equivalent surety that is required per case, whether individual, aggregate, or otherwise, of all appellants, collectively, may not exceed 100 percent of the verdict or one hundred fifty million dollars ($150,000,000) whichever is lesser, regardless of the value of the judgment.

(b) Nothing in this section or any other provision of law shall be construed to eliminate the discretion of the court, for good cause shown, to set the undertaking or bond on appeal in an amount lower than that otherwise established by law.

(c) If the appellee proves by a preponderance of the evidence that a party bringing an appeal or seeking a stay of execution of judgment and for whom the undertaking has been limited under this section, is intentionally dissipating or diverting assets outside the ordinary course of its business for the purpose of avoiding ultimate payment of the judgment, any limitation under subdivision (a) may be rescinded and the court may order any actions necessary to prevent dissipation or diversion of the assets.

SEC. 19.5. Section 127885 of the Health and Safety Code is amended to read:

127885. The office shall maintain a Health Professions Career Opportunity Program that shall include, but not be limited to, all of the following:

(a) Producing and disseminating a series of publications aimed at informing and motivating minority and disadvantaged students to pursue health professional careers.

(b) Conducting a conference series aimed at informing those students of opportunities in health professional training and mechanisms of successfully preparing to enter the training.

(c) Providing support and technical assistance to health professional schools and colleges as well as to student and

community organizations active in minority health professional development.

(d) Conducting relevant manpower information and data analysis in the field of minority and disadvantaged health professional development.

(e) Providing necessary consultation, recruitment, and counseling through other means.

(f) Supporting and encouraging minority health professionals in training to practice in health professional shortage areas of California.

(g) This section shall be implemented only to the extent that funds are appropriated for its purposes in the annual Budget Act or other statute.

SEC. 20. Section 11001.5 of the Revenue and Taxation Code is amended to read:

11001.5. (a) (1) Notwithstanding Section 11001, and except as provided in paragraph 2 and in subdivision (b), 24.33 percent of the moneys collected by the department under this part shall be reported monthly to the Controller, and at the same time, deposited in the State Treasury to the credit of the Local Revenue Fund, as established pursuant to Section 17600 of the Welfare and Institutions Code. All other moneys collected by the department under this part shall continue to be deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund and allocated to each city, county, and city and county as otherwise provided by law.

(2) For the period beginning on and after July 1, 2003, and ending on July 1, 2004, the Controller shall deposit an amount equal to 28.07 percent of the moneys collected by the department under this part in the State Treasury to the credit of the Local Revenue Fund. All other moneys collected by the department under this part shall continue to be deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund and allocated to each city, county, and city and county as otherwise provided by law.

(b) Notwithstanding Section 11001, net funds collected as a result of procedures developed for greater compliance with vehicle license fee laws in order to increase the amount of vehicle license fee collections shall be reported monthly to the Controller, and at the same time, deposited in the State Treasury to the credit

of the Vehicle License Fee Collection Account of the Local Revenue Fund as established pursuant to Section 17600 of the Welfare and Institutions Code. All revenues in excess of fourteen million dollars ($14,000,000) in any fiscal year shall be allocated to cities and counties as specified in subdivisions (c) and (d) of Section 11005.

(c) Notwithstanding Section 11001, 25.72 percent of the moneys collected by the department on or after August 1, 1991, and before August 1, 1992, under this part shall be reported monthly to the Controller, and at the same time, deposited in the State Treasury to the credit of the Local Revenue Fund, as established pursuant to Section 17600 of the Welfare and Institutions Code. All other moneys collected by the department under this part shall continue to be deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund and allocated to each city, county, and city and county as otherwise provided by law.

(d) This section shall cease to be operative on the first day of the month following the month in which the Department of Motor Vehicles is notified by the Department of Finance of a final judicial determination by the California Supreme Court or any California court of appeal of either of the following:

(1) The allocation of funds from the Vehicle License Fee Account or the Vehicle License Fee Growth Account of the Local Revenue Fund established during the 1991–92 Regular Session is in violation of Section 15 of Article XI of the California Constitution.

(2) The state is obligated to reimburse counties for costs of providing medical services to medically indigent adults pursuant to Chapters 328 and 1594 of the Statutes of 1982.

SEC. 20.5. Section 19271 of the Revenue and Taxation Code is amended to read:

19271. (a) (1) For purposes of this article:

(A) ''Child support delinquency'' means a delinquency defined in subdivision (c) of Section 17500 of the Family Code.

(B) ''Earnings'' may include the items described in Section 5206 of the Family Code.

(2) At least 20 days prior to the date that the Franchise Tax Board commences collection action under this article, the Franchise Tax Board shall mail notice of the amount due to the

obligated parent at the last known address and advise the obligated parent that failure to pay will result in collection action. If the obligated parent disagrees with the amount due, the obligated parent shall be instructed to contact the local child support agency to resolve the disagreement.

(b) (1) (A) Except as otherwise provided in subparagraph (B), when a delinquency is transferred to the Franchise Tax Board pursuant to subdivision (c) of Section 17500 of the Family Code, the amount of the child support delinquency shall be collected by the Franchise Tax Board in any manner authorized under the law for collection of a delinquent personal income tax liability. Notwithstanding Sections 5208 and 5246 of the Family Code, the issuance of an order and levy under Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure in the manner provided for earnings withholding orders for taxes is hereby authorized until the California Child Support Automation System is operational in all 58 California counties. When the California Child Support Automation System is operational in all 58 counties, any levy or other withholding of earnings of an employee by the Franchise Tax Board to collect an amount pursuant to this section shall be made in accordance with Sections 5208 and 5246 of the Family Code. Any other law providing for the collection of a delinquent personal income tax liability shall apply to any child support delinquency transferred to the Franchise Tax Board in the same manner and with the same force and effect and to the full extent as if the language of those laws had been incorporated in full into this article, except to the extent that any provision is either inconsistent with a provision of this article or is not relevant to this article.

(B) When a delinquency is transferred to the Franchise Tax Board, or at any time thereafter, if the obligated parent owes a delinquent personal income tax liability, the Franchise Tax Board shall not engage in, or shall cease, any involuntary collection action to collect the delinquent personal income tax liability, until the child support delinquency is paid in full. At any time, however, the Franchise Tax Board may mail any other notice to the taxpayer for voluntary payment of the delinquent personal income tax liability if the Franchise Tax Board determines that collection of the delinquent personal income tax liability will not jeopardize collection of the child support delinquency. However, the

Franchise Tax Board may engage in the collection of a delinquent personal income tax liability if the obligor has entered into a payment agreement for the child support delinquency and is in compliance with that agreement, and the Franchise Tax Board determines that collection of the delinquent personal income tax liability would not jeopardize payments under the child support payment agreement.

(C) For purposes of subparagraph (B):

(i) ''Involuntary collection action'' includes those actions authorized by Section 18670, 18670.5, 18671, or 19264, by Article 3 (commencing with Section 19231), or by Chapter 5 (commencing with Section 706.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(ii) ''Delinquent personal income tax liability'' means any taxes, additions to tax, penalties, interest, fees, or other related amounts due and payable under Part 10 (commencing with Section 17001) or this part.

(iii) ''Voluntary payment'' means any payment made by obligated parents in response to any notice for voluntary payment mailed by the Franchise Tax Board.

(2) Any compensation, fee, commission, expense, or any other fee for service incurred by the Franchise Tax Board in the collection of a child support delinquency authorized under this article shall not be an obligation of, or collected from, the obligated parent. A transferred child support delinquency shall be final and due and payable to the State of California upon written notice to the obligated parent by the Franchise Tax Board.

(3) For purposes of administering this article:

(A) This chapter and Chapter 7 (commencing with Section 19501) shall apply, except as otherwise provided by this article.

(B) Any services, information, or enforcement remedies available to a local child support agency or the Title IV-D agency in collecting child support delinquencies or locating absent or noncustodial parents shall be available to the Franchise Tax Board for purposes of collecting child support delinquencies under this article, including, but not limited to, any information that may be disclosed by the Franchise Tax Board to the California Parent Locator Service under Section 19548. However, in no event shall the Franchise Tax Board take any additional enforcement remedies if a court has ordered an obligor to make scheduled payments on

a child support arrearages obligation and the parent is in compliance with that order, unless the Franchise Tax Board is specifically authorized to take an enforcement action to collect a child support delinquency by another provision of law.

(C) A request by the Franchise Tax Board for information from a financial institution shall be treated in the same manner and to the same extent as a request for information from a local child support agency referring to a support order pursuant to Section 17400 of the Family Code for purposes of Chapter 20 (commencing with Section 7460) of Division 7 of Title 1 of the Government Code (relating to governmental access to financial records), notwithstanding any other provision of law which is inconsistent or contrary to this paragraph.

(D) The amount to be withheld in an order and levy to collect child support delinquencies under Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure is the amount required to be withheld pursuant to an earnings withholding order for support under Section 706.052 of the Code of Civil Procedure.

(E) Nothing in this article shall be construed to modify the tax intercept provisions of Article 8 (commencing with Section 708.710) of Chapter 6 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(c) Interest on the delinquency shall be computed pursuant to Section 685.010 of the Code of Civil Procedure.

(d) (1) In no event shall a collection under this article be construed to be a payment of income taxes imposed under this part.

(2) In the event an obligated parent overpays a liability imposed under this part, the overpayment shall not be credited against any delinquency collected pursuant to this article. In the event an overpayment of a liability imposed under this part is offset and distributed to a local child support agency pursuant to Sections 12419.3 and 12419.5 of the Government Code or Section 708.740 of the Code of Civil Procedure, and thereby reduces the amount of the referred delinquency, the local child support agency shall immediately notify the Franchise Tax Board of that reduction, unless the Franchise Tax Board directs otherwise.

(e) (1) The Franchise Tax Board shall administer this article, in conjunction with regulations adopted by the Department of Child Support Services in consultation with the Franchise Tax

Board, including those set forth in Section 17306 of the Family Code.

(2) The Franchise Tax Board may transfer to or allow a local child support agency to retain a child support delinquency for a specified purpose for collection where the Franchise Tax Board determines, pursuant to regulations established by the Department of Child Support Services, that the transfer or retention of the delinquency for the purpose so specified will enhance the collectibility of the delinquency. The Franchise Tax Board, with the concurrence of the Department of Child Support Services, shall establish a process whereby a local child support agency may request and shall be allowed to withdraw, rescind, or otherwise recall the transfer of an account that has been transferred to the Franchise Tax Board.

(3) If an obligor is disabled, meets the SSI resource test, and is receiving Supplemental Security Income/State Supplementary Payments (SSI/SSP), or, but for excess income as described in Section 416.1100 et seq. of Part 416 of Title 20 of the Code of Federal Regulations, would be eligible to receive as Supplemental Security Income/State Supplementary Payments (SSI/SSP), pursuant to Section 12200 of the Welfare and Institutions Code, and the obligor has supplied the local child support agency with proof of his or her eligibility for, and, if applicable, receipt of, SSI/SSP or Social Security Disability Insurance benefits, then the child support delinquency shall not be referred to the Franchise Tax Board for collection, and if referred, shall be withdrawn, rescinded, or otherwise recalled from the Franchise Tax Board by the local child support agency. The Franchise Tax Board shall not take any collection action, or if the agency has already taken collection action, shall cease collection actions in the case of a disabled obligor when the delinquency is withdrawn, rescinded, or otherwise recalled by the local child support agency in accordance with the process established as described in paragraph (2).

(f) Except as otherwise provided in this article, any child support delinquency transferred to the Franchise Tax Board pursuant to this article shall be treated as a child support delinquency for all other purposes, and any collection action by the local child support agency or the Franchise Tax Board with respect to any delinquency referred pursuant to this article shall have the

same priority against attachment, execution, assignment, or other collection action as is provided by any other provision of state law.

(g) Except as otherwise specifically provided in subparagraph (B) of paragraph (1) of subdivision (b), the child support collection activities authorized by this article shall not interfere with the primary mission of the Franchise Tax Board to fairly and efficiently administer the Revenue and Taxation Code for which it is responsible.

(h) Information disclosed to the Franchise Tax Board shall be considered information that may be disclosed by the Franchise Tax Board under the authority of Section 19548 and may be disseminated by the Franchise Tax Board accordingly for the purposes specified in Sections 17505 and 17506 of the Family Code (in accordance with, and to the extent permitted by, Section 17514 of the Family Code and any other state or federal law).

(i) A local child support agency may not apply to the Department of Child Support Services for an exemption from the transfer of responsibilities and authorities to the Franchise Tax Board under the Family Code or participation under Section 19271.6.

(j) Except in those cases meeting the specified circumstances described in the regulations or in accordance with the processes prescribed in paragraphs (2) and (3) of subdivision (e), a local child support agency shall not request or be allowed to retain, withdraw, rescind, or otherwise recall the transfer of a child support delinquency transferred to the Franchise Tax Board.

SEC. 21. Section 19271.6 of the Revenue and Taxation Code is amended to read:

19271.6. (a) The Franchise Tax Board, through a cooperative agreement with the Department of Child Support Services, and in coordination with financial institutions doing business in this state, shall operate a Financial Institution Match System utilizing automated data exchanges to the maximum extent feasible. The Financial Institution Match System shall be implemented pursuant to guidelines prescribed by the Department of Child Support Services and the Franchise Tax Board. These guidelines shall include a structure by which financial institutions, or their designated data processing agents, shall receive from the Franchise Tax Board the file or files of past-due support obligors compiled in accordance with subdivision (c), that the institution

shall match with its own list of accountholders to identify past-due support obligor accountholders at the institution. To the extent allowed by the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the guidelines shall include an option by which financial institutions without the technical ability to process the data exchange, or without the ability to employ a third-party data processor to process the data exchange, may forward to the Franchise Tax Board a list of all accountholders and their social security numbers, so that the Franchise Tax Board shall match that list with the file or files of past-due support obligors compiled in accordance with subdivision (c).

(b) The Financial Institution Match System shall not be subject to any limitation set forth in Chapter 20 (commencing with Section 7460) of Division 7 of Title 1 of the Government Code. However, any use of the information provided pursuant to this section for any purpose other than the enforcement and collection of a child support delinquency, as set forth in Section 19271, shall be a violation of Section 19542.

(c) (1) Each county shall compile a file of support obligors with judgments and orders that are being enforced by local child support agencies pursuant to Section 17400 of the Family Code, and who are past due in the payment of their support obligations. The file shall be compiled, updated, and forwarded to the Franchise Tax Board, in accordance with the guidelines prescribed by the Department of Child Support Services and the Franchise Tax Board.

(2) The Department of Child Support Services, shall compile a file of obligors with support arrearages from requests made by other states for administrative enforcement in interstate cases, in accordance with federal requirements (42 U.S.C. Sec. 666(a)(14)). This file shall be compiled and forwarded to the Franchise Tax Board in accordance with the guidelines prescribed by the Department of Child Support Services and the Franchise Tax Board. The file shall include, to the extent possible, the obligor’s address.

(d) To effectuate the Financial Institution Match System, financial institutions subject to this section shall do all of the following:

(1) Provide to the Franchise Tax Board on a quarterly basis the name, record address and other addresses, social security number or other taxpayer identification number, and other identifying information for each noncustodial parent who maintains an account at the institution and who owes past-due support, as identified by the Franchise Tax Board by name and social security number or other taxpayer identification number.

(2) Except as provided in subdivision (j), in response to a notice or order to withhold issued by the Franchise Tax Board, withhold from any accounts of the obligor the amount of any past-due support stated on the notice or order and transmit the amount to the Franchise Tax Board in accordance with Section 18670 or 18670.5.

(e) Unless otherwise required by applicable law, a financial institution furnishing a report or providing information to the Franchise Tax Board pursuant to this section shall not disclose to a depositor or an accountholder, or a codepositor or coaccountholder, that the name, address, social security number, or other taxpayer identification number or other identifying information of that person has been received from or furnished to the Franchise Tax Board.

(f) A financial institution shall incur no obligation or liability to any person arising from any of the following:

(1) Furnishing information to the Franchise Tax Board as required by this section.

(2) Failing to disclose to a depositor or accountholder that the name, address, social security number, or other taxpayer identification number or other identifying information of that person was included in the data exchange with the Franchise Tax Board required by this section.

(3) Withholding or transmitting any assets in response to a notice or order to withhold issued by the Franchise Tax Board as a result of the data exchange. This paragraph shall not preclude any liability that may result if the financial institution does not comply with subdivision (b) of Section 18674.

(4) Any other action taken in good faith to comply with the requirements of this section.

(g) Information required to be submitted to the Franchise Tax Board pursuant to this section shall only be used by the Franchise Tax Board to collect past-due support pursuant to Section 19271.

If the Franchise Tax Board has issued an earnings withholding order and the condition described in subparagraph (C) of paragraph (1) of subdivision (i) exists with respect to the obligor, the Franchise Tax Board shall not use the information it receives under this section to collect the past-due support from that obligor.

(1) With respect to files compiled under paragraph (1) of subdivision (c), the Franchise Tax Board shall forward to the counties, in accordance with guidelines prescribed by the Department of Child Support Services and the Franchise Tax Board, information obtained from the financial institutions pursuant to this section. No county shall use this information for directly levying on any account. Each county shall keep the information confidential as provided by Section 17212 of the Family Code.

(2) With respect to files compiled under paragraph (2) of subdivision (c), the amount collected by the Franchise Tax Board shall be deposited and distributed to the referring state in accordance with Section 19272.

(h) For those noncustodial parents owing past-due support for which there is a match under paragraph (1) of subdivision (d), the amount past due as indicated on the file or files compiled pursuant to subdivision (c) at the time of the match shall be a delinquency under this article for the purposes of the Franchise Tax Board taking any collection action pursuant to Section 18670 or 18670.5.

(i) A child support delinquency need not be referred to the Franchise Tax Board for collection if a jurisdiction outside this state is enforcing the support order.

(j) (1) Each county shall notify the Franchise Tax Board upon the occurrence of the circumstances described in the following subparagraphs with respect to an obligor of past-due support:

(A) A court has ordered an obligor to make scheduled payments on a child support arrearages obligation and the obligor is in compliance with that order.

(B) An earnings assignment order or an order/notice to withhold income that includes an amount for past-due support has been served on the obligated parent’s employer and earnings are being withheld pursuant to the earnings assignment order or an order/notice to withhold income.

(C) At least 50 percent of the obligated parent’s earnings are being withheld for support.

(2) Notwithstanding Section 704.070 of the Code of Civil Procedure, if any of the conditions set forth in paragraph (1) exist, the assets of an obligor held by a financial institution are subject to levy as provided by paragraph (2) of subdivision (d). However, the first three thousand five hundred dollars ($3,500) of an obligor's assets are exempt from collection under this subdivision without the obligor having to file a claim of exemption.

(3) An obligor may apply for a claim of exemption pursuant to Article 2 (commencing with Section 703.510) of Chapter 4 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure for an amount that is less than or equal to the total amount levied. The sole basis for a claim of exemption under this subdivision shall be the financial hardship for the obligor and the obligor's dependents.

(4) For the purposes of a claim of exemption made pursuant to paragraph (3), Section 688.030 of the Code of Civil Procedure shall not apply.

(5) For claims of exemption made pursuant to paragraph (3), the local child support agency responsible for enforcement of the obligor's child support order shall be the levying officer for the purpose of compliance with the provisions set forth in Article 2 (commencing with Section 703.510) of Chapter 4 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure except for the release of property required by subdivision (e) of Section 703.580 of the Code of Civil Procedure.

(6) The local child support agency shall notify the Franchise Tax Board within two business days of the receipt of a claim of exemption from an obligor. The Franchise Tax Board shall direct the financial institution subject to the order to withhold to hold any funds subject to the order pending notification by the Franchise Tax Board to remit or release the amounts held.

(7) The superior court in the county in which the local child support agency enforcing the support obligation is located shall have jurisdiction to determine the amount of exemption to be allowed. The court shall consider the needs of the obligor, the obligee, and all persons the obligor is required to support, and all other relevant circumstances in determining whether to allow any exemption pursuant to this subdivision. The court shall give effect to its determination by an order specifying the extent to which the amount levied is exempt.

(8) Within two business days of receipt of an endorsed copy of a court order issued pursuant to subdivision (e) of Section 703.580 of the Code of Civil Procedure, the local child support agency shall provide the Franchise Tax Board with a copy of the order. The Franchise Tax Board shall instruct the financial institution to remit or release the obligor's funds in accordance with the court's order.

(k) For purposes of this section:

(1) ''Account'' means any demand deposit account, share or share draft account, checking or negotiable withdrawal order account, savings account, time deposit account, or a money market mutual fund account, whether or not the account bears interest.

(2) ''Financial institution'' has the same meaning as defined in Section 669A(d)(1) of Title 42 of the United States Code.

(3) ''Past-due support'' means any child support obligation that is unpaid on the due date for payment.

(*l*) Out of any money received from the federal government for the purpose of reimbursing financial institutions for their actual and reasonable costs incurred in complying with this section, the state shall reimburse those institutions. To the extent that money is not provided by the federal government for that purpose, the state shall not reimburse financial institutions for their costs in complying with this section.

SEC. 21.5. Section 1611 of the Unemployment Insurance Code is amended to read:

1611. Money in the Employment Training Fund shall be expended only for the purposes of Chapter 3.5 (commencing with Section 10200) of Part 1 of Division 3, and for the costs of administering this article and Section 976.6, except:

(a) With the approval of the Legislature, the fund or contributions to it may be used to pay interest charged on federal loans to the Unemployment Fund.

(b) Commencing with allocations made to the Employment Training Panel in the 1992–93 fiscal year, any moneys allocated to the panel in a fiscal year that are not encumbered by the panel in that fiscal year, shall revert to the Unemployment Insurance Fund.

(c) It is the intent of the Legislature that the panel shall closely monitor program performance and expenditures for employment training programs administered by the panel, and that the panel shall expeditiously disencumber funds that are not needed for

employment training program completion. Commencing with the 1992–93 fiscal year, those moneys that are disencumbered during the fiscal year that are not reencumbered during the same fiscal year shall revert to the Unemployment Insurance Fund.

SEC. 22. Section 1611.5 of the Unemployment Insurance Code is amended to read:

1611.5. Notwithstanding Section 1611, the Legislature may appropriate from the Employment Training Fund fifty-six million four hundred thirty-two thousand dollars ($56,432,000) in the Budget Act of 2003 to fund the local assistance portion of welfare-to-work activities under the CalWORKs program, provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, as administered by the State Department of Social Services.

SEC. 22.5. Section 10533 of the Unemployment Insurance Code is amended to read:

10533. (a) The Employment Development Department shall operate the State-Local Cooperative Labor Market Information Program as the primary component of the comprehensive labor market and occupational supply and demand information system provided in Section 10532. The department shall consult with agencies listed in Section 10530 in the development and operation of this program.

(b) The objectives of this program shall be to produce, through extensive local participation and for distribution in effective formats to all local users, reliable occupational information, and to achieve cost-efficient production by avoiding duplication of efforts. The program shall be a primary source for local and statewide occupational information and shall be available in all labor market areas in the state.

(c) In producing this information, state and local agencies shall use state occupational forecasts and other indicators of occupational growth, combined with local employer surveys of recruitment practices, job qualifications, earnings and hours, advancement and outlook, to provide statistically valid occupational analyses for local job training and education programs.

(d) Local labor market information studies shall be conducted by the department or by a local entity and shall include the participation of local users of the information.

SEC. 23. Section 14003 is added to the Unemployment Insurance Code, to read:

14003. (a) Grants or contracts awarded under the federal Workforce Investment Act, codified in Chapter 30 (commencing with Section 2801) of Title 29 of the United States Code, or any other state or federally funded workforce development program, may not be awarded to organizations that are owned or operated as pervasively sectarian organizations.

(b) Grants or contracts awarded under the federal Workforce Investment Act, codified in Chapter 30 (commencing with Section 2801) of Title 29 of the United States Code, or any other state or federally funded workforce development program, shall comply with Section 4 of Article I and Section 5 of Article XVI of the California Constitution, state and federal civil rights laws, and the First Amendment to the United States Constitution in regard to pervasively sectarian organizations. These legal constraints include prohibitions on the discrimination against beneficiaries and staff based on protected categories and on the promoting of religious doctrine to advance sectarian beliefs.

SEC. 23.1. Section 14004 is added to the Unemployment Insurance Code, to read:

14004. To be eligible for state or federal workforce development funds awarded by the state under the California Community and Faith Based Initiative, an organization must be a separate nonprofit entity or affiliate that is a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code.

SEC. 23.5. Section 9544 of the Welfare and Institutions Code is amended to read:

9544. (a) The Legislature finds and declares that the purpose of the Foster Grandparent Program shall be to provide personally meaningful volunteer community service opportunities to low-income older individuals through mentoring children with exceptional physical, developmental, or behavioral needs, in accordance with the federal National and Community Service Trust Act of 1993 (42 U.S.C. Sec. 12651 et seq.).

(b) For purposes of this section, ‘‘foster grandparent volunteer’’ means an individual who is 60 years of age or older, has an insufficient income, as determined in accordance with Part 1208 of Title 45 of the Code of Federal Regulations, and provides at least four hours a day, five days a week of foster grandparent services under this chapter.

(c) Direct service contractors shall meet all of the following requirements:

(1) Be a city, county, city and county, or department of the state, or any suitable private, nonprofit organization, that demonstrates the ability to provide the specified services in a variety of settings, including, but not limited to, hospital pediatric wards, facilities for the physically, emotionally, or mentally impaired, correctional facilities, schools, day care centers, and residences.

(2) Recruit, select, train, and assign staff and volunteers.

(3) Provide volunteer participants with the same benefits, transportation, stipends, and income exemptions as provided to the foster grandparent volunteers funded through the Corporation for National Service.

(4) Provide or arrange for meals, transportation, and supervision for volunteers.

(5) Provide benefits and meaningful volunteer service opportunities to low-income individuals 60 years of age and older.

(6) Serve children under 21 years of age who have special needs or who are deprived of normal relationships with adults.

(7) Provide services to persons, including, but not limited to, any of the following:

(A) Premature and failure-to-thrive babies, or abused, neglected, battered, or chronically ill children in hospitals.

(B) Autistic children, children with cerebral palsy or developmentally disabled children placed in institutions for the developmentally disabled.

(C) Physically impaired children, mentally disabled children, emotionally disturbed children, developmentally disabled children, or children who are socially and culturally deprived in school settings or child care centers, dependent children, neglected children, mentally disabled children, emotionally disturbed or physically impaired children, battered or abused children in residential settings.

(D) Delinquent children or adolescents in correctional institutions.

(E) A child under 19 years of age, when the child has been charged with committing, or adjudged to have committed, an offense which is the equivalent to, a misdemeanor.

(8) Maintaining a systematic means of capturing and reporting all required community-based services program data.

(d) In addition to the opportunity to help children who have exceptional physical, developmental, or behavioral needs and are deprived of normal relationships with adults, foster grandparent volunteers shall receive all of the following:

(1) Expenses for transportation to and from their homes and the place where they render their services or may have transportation in buses or in other transportation made available to them.

(2) One free meal during each day in which the foster grandparent renders services.

(3) Accident insurance, an annual physical examination, and a nontaxable hourly stipend.

(e) This section shall be implemented only to the extent that funds are appropriated for its purposes in the annual Budget Act or in another statute.

SEC. 24. Section 9546 of the Welfare and Institutions Code is amended to read:

9546. (a) The purpose of the Respite Program shall be to provide temporary or periodic services for frail elderly or functionally impaired adults to relieve persons who are providing care, or recruitment and screening of providers and matching respite providers to clients.

(b) Direct services contractors shall do either one or more of the following:

(1) In acting as a respite care information and referral agency, recruiting and screening respite providers and matching respite providers to clients. Respite care registries shall consist of the names, addresses, and telephone numbers of providers, including, but not limited to, individual caregivers, volunteers, adult day care services, including adult day health care services and services provided by licensed residential care facilities for the elderly.

(2) Arranging for and purchasing respite services for program participants.

(3) Maintaining a systematic means of capturing and reporting all required community-based services program data.

(c) This section shall be implemented only to the extent that funds are appropriated for its purposes in the annual Budget Act or in another statute.

SEC. 25. Section 9547 of the Welfare and Institutions Code is amended to read:

9547. (a) The purpose of the Senior Companion Program shall be to provide personally meaningful volunteer community service opportunities to low-income older individuals for the benefit of adults who need assistance in their daily living. It is the purpose of this chapter to enable older individuals to provide care and support on a person-to-person basis to adults with special needs, such as the frail elderly, physically impaired adults and those adults who are mentally or neurologically impaired, in accordance with the National and Community Service Trust Act of 1993 (42 U.S.C. Sec. 12651, et seq.).

(b) For the purposes of this chapter ''senior companion volunteer'' means an older individual who is 60 years of age or older, has an insufficient income, as determined in accordance with Part 1208 of Title 45 of the Code of Federal Regulations, and provides at least four hours a day, five days a week, of senior companion services under this chapter.

(c) Requirements of direct service contractors:

(1) Be a city, county, city and county, or department of the state, or any suitable private, nonprofit organization, that demonstrates the ability to provide the specified services in a variety of settings, including, but not limited to, in residential, nonresidential, institutional and in-home settings.

(2) Demonstrate the ability to recruit, select, train, and assign staff and volunteers.

(3) Provide volunteer participants with the same benefits, transportation, stipends, and income exemptions as provided to the senior companion volunteers funded through the Corporation for National Service.

(4) Provide or arrange for meals, transportation, and supervision for volunteers.

(5) Provide benefits and meaningful volunteer service opportunities to low-income individuals 60 years of age or older.

(6) Serve adults who are frail and have functional impairments.

(7) Provide services to, but not limited to, all of the following:

(A) Older individuals who were either formerly active and are now bedfast, too frail, or too ill to be transported to special programs.

(B) Physically impaired older individuals who cannot leave their homes due to the extent of their disabilities.

(C) Individuals who, due to functional impairments, fear of a fast-moving society, and the possibility of bodily harm, are afraid to go out.

(D) Physically impaired individuals who are capable of interacting in activities for the physically impaired, but because of their limitations have been overprotected by their guardians.

(E) Physically or mentally impaired older individuals who have become so depressed that they have withdrawn from all social interaction and are confined as a result of psychological problems.

(F) Physically impaired individuals who are eager to be enrolled in day care programs, but have to stay on waiting lists until there is an opening.

(8) Maintain a systematic means of capturing and reporting all required community-based services program data.

(d) In addition to the opportunity to help other adults who have special needs, such as the frail elderly, physically impaired adults and those adults who are mentally or neurologically impaired, senior companion volunteers shall receive all of the following:

(1) Expenses for transportation to and from their homes and the place where they render their services or transportation in buses or in other transportation made available to them.

(2) One free meal during each day in which the senior companion renders services.

(3) Accident insurance, an annual physical examination, and a nontaxable hourly stipend.

(e) Senior companions funded under this chapter shall not be assigned to individuals already receiving in-home supportive services.

(f) This section shall be implemented only to the extent that funds are appropriated for its purposes in the annual Budget Act or in another statute.

SEC 25.5. Section 10088 of the Welfare and Institutions Code is amended to read:

10088. (a) If the federal government imposes a penalty on California's child support program for failure to meet the federal automation requirements, the Department of Finance may allocate up to 25 percent of the penalty to counties. The department shall determine the share of the penalty to be allocated to each county based upon the local child support agency's proportionate share of all counties' local child support agencies' administrative costs.

(b) If the department allocates a portion of the federal penalty to counties, it shall, on a quarterly basis, notify the auditor and controller of each county regarding the amounts due to the state for that quarter. Within 30 days after notice is provided by the department, each county shall remit the amount due to the department. If a county does not remit the full quarterly amount within 30 days after the notice is provided by the department, any unpaid amount shall be deducted by the Controller, from any payment due to the county, as directed by the Department of Finance.

(c) For purposes of this section, ''administrative costs'' means the amount allocated to the local child support agency for administration of the child support program for the current year and the prior three fiscal years, excluding automation costs.

(d) This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 26. Section 10088 is added to the Welfare and Institutions Code, to read:

10088. (a) If the federal government imposes a penalty on California's child support program for failure to meet the federal automation requirements, the penalty, for purposes of this chapter, shall be considered a reduction of federal financial participation in county and state administrative costs of the child support program, and shall be allocated to each local child support agency in proportion to its administrative costs. In such a case, the department may hold penalties in abeyance and supplant any dollar reduction to county administrative funding, up to 100 percent of the reduction, subject to the availability of funds in the annual Budget Act. The department and the Department of Finance shall establish criteria under which the penalties may be held in abeyance to each local child support agency. Criteria for

which these penalties may be held in abeyance include, but are not limited to, the following: The local child support agency has entered into an AACA with the department; the local child support agency is meeting all due dates in its work plan, including steps to resolve any Year 2000 problems; the local child support agency has resolved any federal distribution requirement problems; and the county is otherwise cooperating in its current automation and AACA requirements and establishing the California Child Support Automation System.

(b) Any local child support agency that receives a reduction in federal funding as a result of the imposition of a federal penalty shall continue to comply with state and federal law and all requirements of the state plan and plans of cooperation, including the AACA.

(c) This section shall become operative on July 1, 2004.

SEC. 26.5. Section 10544.2 is added to the Welfare and Institutions Code, to read:

10544.2. CalWORKs performance incentive funds allocated to counties under Items 5180-101-0001 and 5180-101-0890 of the Budget Act of 2002 shall be available for encumbrance and expenditure by the county until all of the funds are expended, without regard to fiscal years.

SEC. 27. Section 11462 of the Welfare and Institutions Code is amended to read:

11462. (a) (1) Effective July 1, 1990, foster care providers licensed as group homes, as defined in departmental regulations, including public child care institutions, as defined in Section 11402.5, shall have rates established by classifying each group home program and applying the standardized schedule of rates. The department shall collect information from group providers beginning January 1, 1990, in order to classify each group home program.

(2) Notwithstanding paragraph (1), foster care providers licensed as group homes shall have rates established only if the group home is organized and operated on a nonprofit basis as required under subdivision (h) of Section 11400. The department shall terminate the rate effective January 1, 1993, of any group home not organized and operated on a nonprofit basis as required under subdivision (h) of Section 11400.

(3) (A) The department shall determine, consistent with the requirements of this chapter and other relevant requirements under law, the rate classification level (RCL) for each group home program on a biennial basis. Submission of the biennial rate application shall be made according to a schedule determined by the department.

(B) The department shall adopt regulations to implement this paragraph. The adoption, amendment, repeal, or readoption of a regulation authorized by this paragraph is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted from the requirement to describe specific facts showing the need for immediate action.

(b) A group home program shall be initially classified, for purposes of emergency regulations, according to the level of care and services to be provided using a point system developed by the department and described in the report, ''The Classification of Group Home Programs under the Standardized Schedule of Rates System,'' prepared by the State Department of Social Services, August 30, 1989.

(c) The rate for each RCL has been determined by the department with data from the AFDC-FC Group Home Rate Classification Pilot Study. The rates effective July 1, 1990, were developed using 1985 calendar year costs and reflect adjustments to the costs for each fiscal year, starting with the 1986–87 fiscal year, by the amount of the California Necessities Index computed pursuant to the methodology described in Section 11453. The data obtained by the department using 1985 calendar year costs shall be updated and revised by January 1, 1993.

(d) As used in this section, ''standardized schedule of rates'' means a listing of the 14 rate classification levels, and the single rate established for each RCL.

(e) Except as specified in paragraph (1), the department shall determine the RCL for each group home program on a prospective basis, according to the level of care and services that the group home operator projects will be provided during the period of time for which the rate is being established.

(1) (A) For new and existing providers requesting the establishment of an RCL, and for existing group home programs

requesting an RCL increase, the department shall determine the RCL no later than 13 months after the effective date of the provisional rate. The determination of the RCL shall be based on a program audit of documentation and other information that verifies the level of care and supervision provided by the group home program during a period of the two full calendar months or 60 consecutive days, whichever is longer, preceding the date of the program audit, unless the group home program requests a lower RCL. The program audit shall not cover the first six months of operation under the provisional rate. Pending the department's issuance of the program audit report that determines the RCL for the group home program, the group home program shall be eligible to receive a provisional rate that shall be based on the level of care and service that the group home program proposes it will provide. The group home program shall be eligible to receive only the RCL determined by the department during the pendency of any appeal of the department's RCL determination.

(B) A group home program may apply for an increase in its RCL no earlier than two years from the date the department has determined the group home program's rate, unless the host county, the primary placing county, or a regional consortium of counties submits to the department in writing that the program is needed in that county, that the provider is capable of effectively and efficiently operating the proposed program, and that the provider is willing and able to accept AFDC-FC children for placement who are determined by the placing agency to need the level of care and services that will be provided by the program.

(C) To ensure efficient administration of the department's audit responsibilities, and to avoid the fraudulent creation of records, group home programs shall make records that are relevant to the RCL determination available to the department in a timely manner. Except as provided in this section, the department may refuse to consider, for purposes of determining the rate, any documents that are relevant to the determination of the RCL that are not made available by the group home provider by the date the group home provider requests a hearing on the department's RCL determination. The department may refuse to consider, for purposes of determining the rate, the following records, unless the group home provider makes the records available to the

department during the fieldwork portion of the department's program audit:

(i) Records of each employee's full name, home address, occupation, and social security number.

(ii) Time records showing when the employee begins and ends each work period, meal periods, split shift intervals, and total daily hours worked.

(iii) Total wages paid each payroll period.

(iv) Records required to be maintained by licensed group home providers under Title 22 of the California Code of Regulations that are relevant to the RCL determination.

(D) To minimize financial abuse in the startup of group home programs, when the department's RCL determination is more than three levels lower than the RCL level proposed by the group home provider, and the group home provider does not appeal the department's RCL determination, the department shall terminate the rate of a group home program 45 days after issuance of its program audit report. When the group home provider requests a hearing on the department's RCL determination, and the RCL determined by the director under subparagraph (E) is more than three levels lower than the RCL level proposed by the group home provider, the department shall terminate the rate of a group home program within 30 days of issuance of the director's decision. Notwithstanding the reapplication provisions in subparagraph (B), the department shall deny any request for a new or increased RCL from a group home provider whose RCL is terminated pursuant to this subparagraph, for a period of no greater than two years from the effective date of the RCL termination.

(E) A group home provider may request a hearing of the department's RCL determination under subparagraph (A) no later than 30 days after the date the department issues its RCL determination. The department's RCL determination shall be final if the group home provider does not request a hearing within the prescribed time. Within 60 days of receipt of the request for hearing, the department shall conduct a hearing on the RCL determination. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department. The hearing officer shall issue the proposed decision within 45 days of the close of the evidentiary record. The director shall adopt, reject, or modify the proposed decision, or refer the matter

back to the hearing officer for additional evidence or findings within 100 days of issuance of the proposed decision. If the director takes no action on the proposed decision within the prescribed time, the proposed decision shall take effect by operation of law.

(2) Group home programs that fail to maintain at least the level of care and services associated with the RCL upon which their rate was established shall inform the department. The department shall develop regulations specifying procedures to be applied when a group home fails to maintain the level of services projected, including, but not limited to, rate reduction and recovery of overpayments.

(3) The department shall not reduce the rate, establish an overpayment, or take other actions pursuant to paragraph (2) for any period that a group home program maintains the level of care and services associated with the RCL for children actually residing in the facility. Determinations of levels of care and services shall be made in the same way as modifications of overpayments are made pursuant to paragraph (2) of subdivision (b) of Section 11466.2.

(4) A group home program that substantially changes its staffing pattern from that reported in the group home program statement shall provide notification of this change to all counties that have placed children currently in care. This notification shall be provided whether or not the RCL for the program may change as a result of the change in staffing pattern.

(f) (1) The standardized schedule of rates for the 2002–03 and 2003–04 fiscal years is:

Rate Classification Level	Point Ranges	FY 2002–03 and 2003–04 Standard Rate
1	Under 60	$1,454
2	60– 89	1,835
3	90–119	2,210
4	120–149	2,589
5	150–179	2,966
6	180–209	3,344
7	210–239	3,723
8	240–269	4,102

9	270–299	4,479
10	300–329	4,858
11	330–359	5,234
12	360–389	5,613
13	390–419	5,994
14	420 & Up	6,371

(2) (A) For group home programs that receive AFDC-FC payments for services performed during the 2002–03 and 2003–04 fiscal years, the adjusted RCL point ranges below shall be used for establishing the biennial rates for existing programs, pursuant to paragraph (3) of subdivision (a) and in performing program audits and in determining any resulting rate reduction, overpayment assessment, or other actions pursuant to paragraph (2) of subdivision (e):

Rate Classification Level	Adjusted Point Ranges for the 2002–03 and 2003–04 Fiscal Years
1	Under 54
2	54– 81
3	82–110
4	111–138
5	139–167
6	168–195
7	196–224
8	225–253
9	254–281
10	282–310
11	311–338
12	339–367
13	368–395
14	396 & Up

(B) Notwithstanding subparagraph (A), foster care providers operating group homes during the 2002–03 and 2003–04 fiscal years shall remain responsible for ensuring the health and safety of the children placed in their programs in accordance with existing applicable provisions of the Health and Safety Code and

community care licensing regulations, as contained in Title 22 of the Code of California Regulations.

(C) Subparagraph (A) shall not apply to program audits of group home programs with provisional rates established pursuant to paragraph (1) of subdivision (e). For those program audits, the RCL point ranges in paragraph (1) shall be used.

(g) (1) (A) For the 1999–2000 fiscal year, the standardized rate for each RCL shall be adjusted by an amount equal to the California Necessities Index computed pursuant to the methodology described in Section 11453. The resultant amounts shall constitute the new standardized schedule of rates, subject to further adjustment pursuant to subparagraph (B).

(B) In addition to the adjustment in subparagraph (A), commencing January 1, 2000, the standardized rate for each RCL shall be increased by 2.36 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new standardized schedule of rates.

(2) Beginning with the 2000–01 fiscal year, the standardized schedule of rates shall be adjusted annually by an amount equal to the CNI computed pursuant to Section 11453, subject to the availability of funds. The resultant amounts shall constitute the new standardized schedule of rates.

(3) Effective January 1, 2001, the amount included in the standard rate for each Rate Classification Level for the salaries, wages, and benefits for staff providing child care and supervision or performing social work activities, or both, shall be increased by 10 percent. This additional funding shall be used by group home programs solely to supplement staffing, salaries, wages, and benefit levels of staff specified in this paragraph. The standard rate for each RCL shall be recomputed using this adjusted amount and the resultant rates shall constitute the new standardized schedule of rates. The department may require a group home receiving this additional funding to certify that the funding was utilized in accordance with the provisions of this section.

(h) The standardized schedule of rates pursuant to subdivisions (f) and (g) shall be implemented as follows:

(1) Any group home program that received an AFDC-FC rate in the prior fiscal year at or above the standard rate for the RCL in the current fiscal year shall continue to receive that rate.

(2) Any group home program that received an AFDC-FC rate in the prior fiscal year below the standard rate for the RCL in the current fiscal year shall receive the RCL rate for the current year.

(i) (1) The department shall not establish a rate for a new program of a new or existing provider unless the provider submits a recommendation from the host county, the primary placing county, or a regional consortium of counties that the program is needed in that county; that the provider is capable of effectively and efficiently operating the program; and that the provider is willing and able to accept AFDC-FC children for placement who are determined by the placing agency to need the level of care and services that will be provided by the program.

(2) The department shall encourage the establishment of consortia of county placing agencies on a regional basis for the purpose of making decisions and recommendations about the need for, and use of, group home programs and other foster care providers within the regions.

(3) The department shall annually conduct a county-by-county survey to determine the unmet placement needs of children placed pursuant to Section 300 and Section 601 or 602, and shall publish its findings by November 1 of each year.

(j) The department shall develop regulations specifying ratesetting procedures for program expansions, reductions, or modifications, including increases or decreases in licensed capacity, or increases or decreases in level of care or services.

(k) (1) For the purpose of this subdivision, ''program change'' means any alteration to an existing group home program planned by a provider that will increase the RCL or AFDC-FC rate. An increase in the licensed capacity or other alteration to an existing group home program that does not increase the RCL or AFDC-FC rate shall not constitute a program change.

(2) For the 1998–99, 1999–2000, and 2000–01 fiscal years, the rate for a group home program shall not increase, as the result of a program change, from the rate established for the program effective July 1, 2000, and as adjusted pursuant to subparagraph (B) of paragraph (1) of subdivision (g), except as provided in paragraph (3).

(3) (A) For the 1998–99, 1999–2000, and 2000–01 fiscal years, the department shall not establish a rate for a new program of a new or existing provider or approve a program change for an

existing provider that either increases the program's RCL or AFDC-FC rate, or increases the licensed capacity of the program as a result of decreases in another program with a lower RCL or lower AFDC-FC rate that is operated by that provider, unless both of the following conditions are met.

(i) The licensee obtains a letter of recommendation from the host county, primary placing county, or regional consortium of counties regarding the proposed program change or new program.

(ii) The county determines that there is no increased cost to the General Fund.

(B) Notwithstanding subparagraph (A), the department may grant a request for a new program or program change, not to exceed 25 beds, statewide, if both of the following conditions are met:

(i) The licensee obtains a letter of recommendation from the host county, primary placing county, or regional consortium of counties regarding the proposed program change or new program.

(ii) The department determines that the new program or program change will result in a reduction of referrals to state hospitals during the 1998–99 fiscal year.

(*l*) General unrestricted or undesignated private charitable donations and contributions made to charitable or nonprofit organizations shall not be deducted from the cost of providing services pursuant to this section. The donations and contributions shall not be considered in any determination of maximum expenditures made by the department.

(m) The department shall, by October 1 each year, commencing October 1, 1992, provide the Joint Legislative Budget Committee with a list of any new departmental requirements established during the previous fiscal year concerning the operation of group homes, and of any unusual, industrywide increase in costs associated with the provision of group care that may have significant fiscal impact on providers of group homes care. The committee may, in fiscal year 1993–94 and beyond, use the list to determine whether an appropriation for rate adjustments is needed in the subsequent fiscal year.

SEC. 28. Section 11463 of the Welfare and Institutions Code is amended to read:

11463. (a) (1) The department, with the advice, assistance, and cooperation of the counties and foster care providers, shall

develop, implement, and maintain a ratesetting system for foster family agencies.

(2) No county shall be reimbursed for any percentage increases in payments, made on behalf of AFDC-FC funded children who are placed with foster family agencies, that exceed the percentage cost-of-living increase provided in any fiscal year beginning on January 1, 1990, as specified in subdivision (c) of Section 11461.

(b) The department shall develop regulations specifying the purposes, types, and services of foster family agencies, including the use of those agencies for the provision of emergency shelter care. A distinction, for ratesetting purposes, shall be drawn between foster family agencies that provide treatment of children in foster families and those that provide nontreatment services.

(c) The department shall develop and maintain regulations specifying the procedure for the appeal of department decisions about the setting of an agency's rate.

(d) On and after July 1, 1998, the schedule of rates, and the components used in the rate calculations specified in the department's regulations, for foster family agencies shall be increased by 6 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new schedule of rates for foster family agencies.

(e) (1) On and after July 1, 1999, the schedule of rates and the components used in the rate calculations specified in the department's regulations for foster family agencies shall be adjusted by an amount equal to the California Necessities Index computed pursuant to Section 11453, rounded to the nearest dollar, subject to the availability of funds. The resultant amounts shall constitute the new schedule of rates for foster family agencies, subject to further adjustment pursuant to paragraph (2).

(2) In addition to the adjustment specified in paragraph (1), commencing January 1, 2000, the schedule of rates and the components used in the rate calculations specified in the department's regulations for foster family agencies shall be increased by 2.36 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new schedule of rates for foster family agencies.

(f) For the 1999–2000 fiscal year, foster family agency rates that are not determined by the schedule of rates set forth in the

department's regulations, shall be increased by the same percentage as provided in subdivision (e).

(g) For the 2000–01 fiscal year and each fiscal year thereafter, without a county share of cost, notwithstanding subdivision (c) of Section 15200, the foster family agency rate shall be supplemented by one hundred dollars ($100) for clothing per year per child in care, subject to the availability of funds. The supplemental payment shall be used to supplement, and shall not be used to supplant, any clothing allowance paid in addition to the foster family agency rate.

(h) In addition to the adjustment made pursuant to subdivision (e), the component for social work activities in the rate calculation specified in the department's regulations for foster family agencies shall be increased by 10 percent, effective January 1, 2001. This additional funding shall be used by foster family agencies solely to supplement staffing, salaries, wages, and benefit levels of staff performing social work activities. The schedule of rates shall be recomputed using the adjusted amount for social work activities. The resultant amounts shall constitute the new schedule of rates for foster family agencies. The department may require a foster family agency receiving this additional funding to certify that the funding was utilized in accordance with the provisions of this section.

(i) (1) The department shall determine, consistent with the requirements of this section and other relevant requirements under law, the rate category for each foster family agency on a biennial basis. Submission of the biennial rate application shall be according to a schedule determined by the department.

(2) The department shall adopt regulations to implement this subdivision. The adoption, amendment, repeal, or readoption of a regulation authorized by this subdivision is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted from the requirement to describe specific facts showing the need for immediate action.

SEC. 29. Section 11466.2 of the Welfare and Institutions Code is amended to read:

11466.2. (a) (1) The department shall perform or have performed group home program and fiscal audits as needed. Group home programs shall maintain all child-specific, programmatic,

personnel, fiscal, and other information affecting group home ratesetting and AFDC-FC payments for a period not less than five years.

(2) Notwithstanding paragraph (1), the department shall not reduce a group home program's AFDC-FC rate or RCL, or establish an overpayment based upon a nonprovisional program audit, for a period of less than one year.

(b) (1) The department shall develop regulations to correct a group home program's RCL, and to adjust the rate and to recover any overpayments resulting from an overstatement of the projected level of care and services.

(2) The department shall modify the amount of the overpayment pursuant to paragraph (1) in cases where the level of care and services provided per child in placement equals or exceeds the level associated with the program's RCL. In making this modification, the department shall determine whether services other than child care supervision were provided to children in placement in an amount that is at least proportionate, on a per child basis, to the amount projected in the group home's rate application. In cases where these services are provided in less than a proportionate amount, staffing for child care supervision in excess of its proportionate share shall not be substituted for non-child care supervision staff hours.

(c) (1) In any audit conducted by the department, the department, or other public or private audit agency with which the department contracts, shall coordinate with the department's licensing and ratesetting entities so that a consistent set of standards, rules, and auditing protocols are maintained. The department, or other public or private audit agency with which the department contracts, shall make available to all group home providers, in writing, any standards, rules, and auditing protocols to be used in those audits.

(2) The department shall provide exit interviews with providers whenever deficiencies found are explained and the opportunity exists for providers to respond. The department shall adopt regulations specifying the procedure for the appeal of audit findings.

SEC. 30. Section 11466.35 of the Welfare and Institutions Code is amended to read:

11466.35. (a) Any licensee who has been determined to owe a sustained overpayment under this chapter, and who, subsequent to notice of the sustained overpayment, has its group home rate terminated, shall be ineligible to apply or receive a rate for any future group home program until the overpayment is repaid.

(b) A rate application shall be denied for a group home provider that meets either of the following conditions:

(1) A provider owing a sustained overpayment under this chapter, upon the occurrence of any additional sustained overpayment, shall be ineligible to apply or receive a rate for an existing or future group home program until the sustained overpayments are repaid, unless a voluntary repayment agreement is approved by the department.

(2) A provider incurring a sustained overpayment that constitutes more than 60 percent of the provider's annual rate reimbursement shall be ineligible to apply or receive a rate for any existing or future group home programs until the sustained overpayments are repaid, unless a voluntary repayment agreement is approved by the department.

SEC. 31. Section 12201 of the Welfare and Institutions Code is amended to read:

12201. (a) Except as provided in subdivision (d), the payment schedules set forth in Section 12200 shall be adjusted annually to reflect any increases or decreases in the cost of living. Except as provided in subdivision (e), these adjustments shall become effective January 1 of each year. The cost-of-living adjustment shall be based on the changes in the California Necessities Index, which as used in this section shall be the weighted average of changes for food, clothing, fuel, utilities, rent, and transportation for low-income consumers. The computation of annual adjustments in the California Necessities Index shall be made in accordance with the following steps:

(1) The base period expenditure amounts for each expenditure category within the California Necessities Index used to compute the annual grant adjustment are:

Food	$ 3,027
Clothing (apparel and upkeep)	406
Fuel and other utilities	529
Rent, residential	4,883
Transportation	1,757
Total	$10,602

(2) Based on the appropriate components of the Consumer Price Index for All Urban Consumers, as published by the United States Department of Labor, Bureau of Labor Statistics, the percentage change shall be determined for the 12-month period which ends 12 months prior to the January in which the cost-of-living adjustment will take effect, for each expenditure category specified in paragraph (1) within the following geographical areas: Los Angeles-Long Beach-Anaheim, San Francisco-Oakland, San Diego, and, to the extent statistically valid information is available from the Bureau of Labor Statistics, additional geographical areas within the state which include not less than 80 percent of recipients of aid under this chapter.

(3) Calculate a weighted percentage change for each of the expenditure categories specified in subdivision (a) using the applicable weighting factors for each area used by the State Department of Industrial Relations to calculate the California Consumer Price Index (CCPI).

(4) Calculate a category adjustment factor for each expenditure category in paragraph (1) by (1) adding 100 to the applicable weighted percentage change as determined in paragraph (2) and (2) dividing the sum by 100.

(5) Determine the expenditure amounts for the current year by multiplying each expenditure amount determined for the prior year by the applicable category adjustment factor determined in paragraph (4).

(6) Determine the overall adjustment factor by dividing (1) the sum of the expenditure amounts as determined in paragraph (4) for the current year by (2) the sum of the expenditure amounts as determined in paragraph (4) for the prior year.

(b) The overall adjustment factor determined by the preceding computational steps shall be multiplied by the payment schedules established pursuant to Section 12200 as are in effect during the

month of December preceding the calendar year in which the adjustments are to occur, and the product rounded to the nearest dollar. The resultant amounts shall constitute the new schedules for the categories given under subdivisions (a), (b), (c), (d), (e), (f), and (g) of Section 12200, and shall be filed with the Secretary of State. The amount as set forth in subdivision (h) of Section 12200 shall be adjusted annually pursuant to this section in the event that the secretary agrees to administer payment under that subdivision. The payment schedule for subdivision (i) of Section 12200 shall be computed as specified, based on the new payment schedules for subdivisions (a), (b), (c), and (d) of Section 12200.

(c) The department shall adjust any amounts of aid under this chapter to insure that the minimum level required by the Social Security Act in order to maintain eligibility for funds under Title XIX of that act is met.

(d) (1) No adjustment shall be made under this section for the 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, and 2004 calendar years to reflect any change in the cost of living. Elimination of the cost-of-living adjustment pursuant to this paragraph shall satisfy the requirements of Section 12201.05, and no further reduction shall be made pursuant to that section.

(2) Any cost-of-living adjustment granted under this section for any calendar year shall not include adjustments for any calendar year in which the cost of living was suspended pursuant to paragraph (1).

(e) For the 2003 calendar year, the adjustment required by this section shall become effective June 1, 2003.

SEC. 32. Section 18226 of the Welfare and Institutions Code is amended to read:

18226. This chapter shall become inoperative on October 31, 2004, and, as of January 1, 2005, is repealed, unless a later enacted statute that is enacted before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 33. Section 18901.6 is added to the Welfare and Institutions Code, to read:

18901.6. To the maximum extent allowable by federal law, each county welfare department shall provide transitional food stamp benefits to households terminating their participation in the CalWORKs program for a period of five months. Benefits shall be provided from the date participation in the CalWORKs program

is terminated and shall be in an amount equal to the allotment received in the month immediately preceding that date, adjusted for the change in household income as a result of termination in the CalWORKs program. No adjustment shall be made within the five-month period based on information from another program in which the household participates. A household may reapply during the transition period to have benefit levels adjusted. If necessary, the county welfare department shall extend the annual food stamp recertification period until the end of the transition period.

SEC. 34. Section 19355.5 of the Welfare and Institutions Code is amended to read:

19355.5. (a) Notwithstanding any other provision of law, the hourly rate for supported employment services established pursuant to paragraph (2) of subdivision (b) of Section 19356.6 shall be reduced by the percentage necessary to ensure that projected total General Fund expenditures and reimbursements for habilitation services and vocational rehabilitation supported employment services, including services pursuant to paragraph (2) of, and clauses (i) to (iii), inclusive, of subparagraph (B) of paragraph (2) of, subdivision (b) of Section 19356.6, and, for the habilitation services program only, ancillary services, based on Budget Act caseload projections, do not exceed the General Fund and reimbursement appropriations for these services in the annual Budget Act, exclusive of increases in job coach hours due to unanticipated increases in caseload or the average client workday. This reduction shall not be implemented sooner than 30 days after notification in writing of the necessity for the reduction to the appropriate fiscal committees and policy committees of the Legislature and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine.

(b) The department shall annually make two projections of General Fund expenditures and reimbursements in a form and timeframe as determined by the Department of Finance.

SEC. 35. Section 19356 of the Welfare and Institutions Code is amended to read:

19356. (a) The department shall adopt regulations to establish rates for work-activity program services subject to the

approval of the Department of Finance. The regulations shall provide for an equitable ratesetting procedure in which each specific allowable service, activity, and provider administrative cost comprising an overall habilitation service, as determined by the department, reflects the reasonable cost of service. Reasonable costs shall be determined biennially by the department, subject to audit at the discretion of the department.

(b) It is the intent of the Legislature that, commencing July 1, 1996, the department establish rates for both habilitation services and vocational rehabilitation work-activity programs pursuant to subdivision (a). Nothing in this subdivision shall preclude the subsequent amendment or adoption of regulations pursuant to subdivision (a).

(c) For the 2003–04 fiscal year, notwithstanding any other provision of law, the department shall suspend for one year the biennial rate adjustment for work-activity programs.

(d) Commencing July 1, 2003, the rates paid to work-activity programs pursuant to this section shall be reduced by 5 percent.

SEC. 36. Section 19356.6 of the Welfare and Institutions Code is amended to read:

19356.6. (a) The definitions contained in this subdivision shall govern the construction of this section, with respect to services provided through the Habilitation Services Program, and unless the context requires otherwise, the following terms shall have the following meanings:

(1) ''Supported employment'' means paid work that is integrated in the community for individuals with developmental disabilities whose vocational disability is so severe that they would be unable to achieve this employment without specialized services and would not be able to retain this employment without an appropriate level of ongoing postemployment support services.

(2) ''Integrated work'' means the engagement of an employee with a disability in work in a setting typically found in the community in which individuals interact with nondisabled individuals other than those who are providing services to those individuals, to the same extent that nondisabled individuals in comparable positions interact with other persons.

(3) ''Supported employment placement'' means the employment of an individual with a developmental disability by an employer in the community, directly or through contract with

a supported employment program, and the provision of supported employment services including the provision of ongoing postemployment services necessary for the individual to retain employment. Services for those individuals receiving individualized services from a supported employment program shall decrease as the individual adjusts to his or her employment and the employer assumes many of those functions.

(4) ''Allowable supported employment services'' means the services approved in the individual habilitation component and provided, to the extent allowed by the Habilitation Services Program for the purpose of achieving supported employment as an outcome for individuals with developmental disabilities, which may include any of the following:

(A) Program staff time spent conducting job analysis of supported employment opportunities for a specific consumer.

(B) Program staff time spent in the direct supervision or training of a consumer or consumers while they engage in integrated work unless other arrangements for consumer supervision, such as employer supervision reimbursed by the supported employment program, are approved by the Habilitation Services Program.

(C) Training occurring in the community, in adaptive functional and social skills necessary to ensure job adjustment and retention such as social skills, money management, and independent travel.

(D) Counseling with a consumer's significant others to ensure support of a consumer in job adjustment.

(E) Advocacy or intervention on behalf of a consumer to resolve problems affecting the consumer's work adjustment or retention.

(F) Job development to the extent authorized by the Habilitation Services Program.

(G) Ongoing postemployment support services needed to ensure the consumer's retention of the job.

(5) ''Group services'' means job coach-supported employment services in a group supported employment placement at a job coach-to-client ratio of not less than one-to-four nor more than one-to-eight where a minimum of four clients are department-funded. Group services may be provided on or after July 1, 2002, in a group at a job coach-to-client ratio of

one-to-three, where all three individuals in the group are department-funded supported employment clients, only if the group was established and began working prior to July 1, 2002, but those group services shall not be funded beyond June 30, 2004. The department shall work with providers to add department-funded supported employment clients to those groups on or before July 1, 2004.

(6) ''Individualized services'' means job coach and other supported employment services for department-funded clients in a supported employment placement at a job coach-to-client ratio of one-to-one.

(b) (1) The Habilitation Services Program shall set rates for supported employment services provided in accordance with this section. The Habilitation Services Program shall apply rates in accordance with this section to those work-activity programs or program components of work-activity programs approved by the department to provide supported employment and to new programs or components approved by the Habilitation Services Program to provide supported employment services. Both of these categories of programs or components shall be required to comply with the criteria set forth in subdivision (b) of Section 19356.7 to receive approval from the Habilitation Services Program.

(2) (A) The hourly rate for supported employment services provided to clients receiving individualized services shall be twenty-seven dollars and sixty-two cents ($27.62).

(B) The hourly rate for group services shall be twenty-seven dollars and sixty-two cents ($27.62) regardless of the number of clients served in the group. Clients in a group shall be scheduled to start and end work at the same time, unless an exception is approved in advance by the Habilitation Services Program. The department, in consultation with stakeholders, shall adopt regulations to define the appropriate grounds for granting these exceptions. Except as provided in paragraph (5) of subdivision (a), where the number of clients in a group supported employment placement drops to fewer than four department-funded supported employment clients, department funding for the group services in that group shall be terminated unless the program provider, within 90 days from the date of this occurrence and consistent with Section 19356.7, does one of the following:

(i) Adds one or more department-funded supported employment clients to the group.

(ii) Moves the remaining clients to another existing group.

(iii) Moves the remaining clients, if appropriate, to individualized placement.

(iv) Terminates services.

(C) For clients receiving group services the Habilitation Services Program may set a higher hourly rate for supported employment services, based upon the additional cost to provide ancillary services, when there is a documented and demonstrated need for a higher rate because of the nature and severity of the disabilities of the consumer, as determined by the Habilitation Services Program.

(D) In addition, fees shall be authorized for the following:

(i) A two hundred dollar ($200) fee shall be paid upon intake of a consumer into an agency's supported employment program, unless that individual has completed a supported employment intake process with that same agency within the past 12 months, in which case no fee shall be paid.

(ii) A four hundred dollar ($400) fee shall be paid upon placement of an individual in an integrated job, unless that individual is placed with another consumer or consumers assigned to the same job coach during the same hours of employment, in which case no fee shall be paid.

(iii) A four hundred dollar ($400) fee shall be paid after a 90-day retention of a consumer in a job, unless that individual has been placed with another consumer or consumers, assigned to the same job coach during the same hours of employment, in which case no fee shall be paid.

(3) These rates shall take effect July 1, 1998.

(4) It is the intent of the Legislature that, commencing July 1, 1996, the department establish rates for both habilitation services and vocational rehabilitation supported employment services pursuant to this section.

(5) For individuals receiving individualized services, services may be provided on or off the jobsite.

(6) For individuals receiving group services, ancillary services may be provided, except that all postemployment and ancillary services shall be provided at the worksite.

(c) If a consumer has been placed on a waiting list for vocational rehabilitation as a result of the department's order of selection regulations, the Habilitation Services Program may pay for those supported employment services leading to job development set forth in subparagraph (D) of paragraph (2) of subdivision (b).

(d) The Habilitation Services Program shall approve, in advance, any change in the number of clients served in a group.

(e) The department, in consultation with appropriate stakeholders, shall report to the Department of Finance and the Legislature, on or before January 1, 2001, and annually thereafter, on the implementation of supported employment rates and group size requirements pursuant to this section. The report shall include, but not be limited to, data on the sizes of client groups, the change in average group size, client outcomes, client earnings, to the extent available, and projected caseload and expenditures for the supported employment program. On or before February 1, 2003, the department shall submit to the Department of Finance and the Legislature a final report containing, at a minimum, cumulative data and outcome measures, and shall include recommendations on whether to extend the effective dates of this section and Sections 19355.5, 19355.6, and 19356.7, and recommendations for appropriate changes to those sections.

(f) If the final report required by subdivision (e) is submitted to the Department of Finance and the Legislature on or before February 1, 2003, this section shall become inoperative on September 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 37. Section 19356.7 of the Welfare and Institutions Code is amended to read:

19356.7. (a) Proposals for funding of new, and modifications to existing, supported employment programs and components by the Habilitation Services Program shall be submitted to the Habilitation Services Program and shall contain sufficient information to enable the Habilitation Services Program to act on the proposal under this section.

(b) Provided that sufficient funding is available to finance services by supported employment programs and components, the

Habilitation Services Program may approve or disapprove proposals based on all of the following criteria:

(1) The need for a supported employment program or component.

(2) The capacity of the program to deliver supported employment services effectively.

(3) The ability of the program to comply with accreditation requirements of the Habilitation Services Program. The accreditation standards adopted by the department shall be the standards developed by the Commission of Rehabilitation Facilities and published in the most current edition of the Standards Manual for Organizations Serving People with Disabilities, as well as any subsequent amendments to the manual.

(4) A profile of an average consumer in the program or component, showing the planned progress toward self-reliance as an employee, measured, as appropriate, in terms of decreasing support services.

(5) The ability of the program to achieve integrated paid work on the average for consumers served.

(c) The Habilitation Services Program may purchase supported employment services at the rates authorized in Section 19356.6 only from supported employment programs or components approved under this section.

(d) For purposes of evaluating the effectiveness of the entire program, and individual supported employment programs or components, the Habilitation Services Program may monitor supported employment programs or components to determine whether the performance agreed upon in the approved proposal is being achieved. When the performance of a supported employment program or component does not comply with the criteria according to which it was approved for funding pursuant to subdivision (b), the Habilitation Services Program may establish prospective performance criteria for the program or component, with which the program or component shall comply as a condition of continued funding.

(e) The department shall adopt regulations to implement the requirements of Sections 19352, 19356.6, and this section, in consultation with the California Rehabilitation Association, the United Cerebral Palsy Association, and the Association of Retarded Citizens of California.

SEC. 38. Funds appropriated in Item 5180-151-0001 of the Budget Act of 2003 to the State Department of Social Services to compensate licensed maternity homes shall be awarded to programs located in the most populous county and in an area in that county with one of the highest rates of teenage pregnancy in the state.

SEC. 39. (a) The Department of Child Support Services shall convene representatives from the Legislature, the Legislative Analyst's Office, the Department of Finance, local child support agencies, including small, medium, and large caseload sized, rural and urban, and regionalized programs, and statewide labor organizations to evaluate the child support program allocation methodology and report to the budget committees of the Legislature by March 31, 2004. The evaluation shall take into consideration the impact of implementation of the California Child Support Automation System. The evaluation shall include, but not be limited to, all of the following:

(1) An analysis of past and current allocation methodologies and impacts.

(2) An analysis of the relationship between allocation methodologies, program performance, including collections, and cost-effectiveness.

(3) Consideration of allocation methodologies employed in other programs.

(4) Identification and analysis of factors to be considered in allocating child support program funding, including the impact of automation, business process decisions, and the relationship to required program performance measures.

(5) The advantages and disadvantages of alternative allocation methodologies.

(b) The Department of Child Support Services shall also work with representatives of the Legislature, the Department of Finance, and the Office of the Legislative Analyst to improve its existing budgeting display and enhance the amount and quality of information regarding the program performance and costs that it provides to the Legislature.

SEC. 40. Reductions to local child support agency allocations made in the 2003–04 fiscal year shall be implemented in a manner that does not negatively impact child support collections. Counties that plan to implement any reductions, at least in part through staff

reductions, shall be required to develop a plan, subject to the requirements of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code, that minimizes any negative effect of these reductions on child support collections and other performance measurements.

SEC. 41. It is the intent of the Legislature that, for the 2004–05 fiscal year and each fiscal year thereafter, Item 7100-001-0869 in the budget proposed by the Governor and in the proposed Budget Bill include a separate schedule that itemizes the programs that are proposed to be funded by federal funds that are transmitted to the state pursuant to subsection (a) of Section 128 of the Workforce Investment Act of 1998 (29 U.S.C. Sec. 2853). This itemized schedule may include provisions that authorize the Director of Finance to make certain fund transfers and modifications to this schedule within 30 days after the director notifies, in writing, the Joint Legislative Budget Committee of these transfers and modifications. These provisions shall be in addition to those specified in Sections 26 and 28 of the proposed budget acts.

SEC. 41.5. (a) The Department of Finance shall convene a working group comprised of representatives of the California Health and Human Services Data Center, the Stephen P. Teale Data Center, the office of the Legislative Analyst, and client departments to develop a data center consolidation plan. The working group shall develop and submit to the Legislature on or before December 1, 2003, a plan to consolidate the California Health and Human Services Agency Data Center with the Stephen P. Teale Data Center commencing July 1, 2004. The plan shall include, but not be limited to, the consolidated data center's organizational structure, identification of consolidated activities that result in savings of no less than three million five hundred thousand dollars ($3,500,000) in General Fund moneys in the 2004–05 fiscal year, and identification of data center activities that will produce savings in future fiscal years.

(b) The working group shall consider consolidation of existing data servers within the consolidated data center. If feasible, the working group shall develop a plan to begin consolidation of data servers by July 1, 2004.

SEC. 42. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this

act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 43. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make necessary statutory changes to implement the Budget Act of 2003 at the earliest possible time, it is necessary that this act take effect immediately.

Approved _____, 2003

_____

Governor